1380:a.11.

THE WORKS OF JOHN JONES GENT.

k

In refence to the putting all the Law into Engliſh, and reforming the abuſes thereof: diſcovering a readie waie how men may recover their Debts with little trouble and leſs charges.

Compiled together in theſe ſix Treatiſes following:

1. *The* Judges Judged *out of their own* Mouths.
2. Eight obſervable points *of* Law, *fit to bee known by everie* Juſtice *of* Peace.
3. *The* Autoritie *of a* Juſtice *of* Peace.
4. *The New* Returna Brevium; *or the* Law *returned from* Weſtminſter: *to which is added the* Petition *of* Right *granted by King* Charles *the Firſt.*
5. Jurors, Judges, *both of* Law *and* Fact.
6. The Crie of Blood; *or a true Anſwer to thoſe* 13 *falſ Reaſons of the* Filicers, Attornies, &c. *for the maintenance of* Capias *and Arreſt of men's bodies for Debt.*

BRIT
MUSEUM

JUDGES JUDGED out of their own mouthes.

OR

The QUESTION Resolved by *MAGNA CHARTA*, &c.

Who have been *Englands* Enemies, *Kings* Seducers, and *Peoples* Destroyers, from *Hen.* 3. to *Hen.* 8. and before and since.

Stated by

Sr. EDWARD COKE, Knt. late L. Chief Justice of *England*.

Expostulated, and put to the Vote of the People, by J. JONES, Gent.

Whereunto is added

Eight Observable Points of Law, Executable by Justices of Peace.

Abusum ego, non usum forensem damno.

Ex legibus illis quæ non in tempus aliquod, sed perpetuâ utilitatis causâ in æternum latæ sunt, nulla abrogari debet, nisi quam aut usus coërguit, aut status aliquis Reipublicæ inutilem fecit. Tit. Liv. lib. 4. dec. 4.

LONDON,
Printed by *W. Bently*, and are to be sold by *E. Dod*, and *N. Ekins*, at the Gun in Ivy-Lane. MDCL.

BRIT. MUS.

To the Right
HONOURABLE,
HONOURABLE;
Right
WORSHIPFULL,
And Well-beloved, the
COMMONS,
and PEOPLE of
England Universally.

BEcauſe Magna Char. *Printed in Engliſh,* An. 1564. *and bound up with other Statutes at large (too Voluminous, and coſtly for the generality to read, or buy) doth yield leſs profit than hath been long neceſſary; I have preſumed at the inſtance of ſome, to Dedicate this Treatiſe to you all, as it concern-*

eth the good of all that be, &c. would be good, & the hurt of none that have left any unhurt: wherein you ſhall find ſo many Chap. of Mag. Char. Confir. Char. Art. ſuper Char. *and other Statutes at large, corroborating the ſame; and the L. C. Expoſition thereupon, with ſome Expoſtulations, and Queres of mine own, as I thought requiſite, or convenient for theſe times. The reſt of the* Charter, *concerning the Church, (yet unſetled) or the Kings Tenures, (otherways diſpoſed of) I have omitted as uſeleſs, deſiring that thus much may prove uſeful to all undertakers of Reformation, as well Martial, as Civil.*

Whoſe Servant (to my power)
I ſhall ever be, and continue
with due faithfulneſs,
and humility.

Jo. Jones.

The Great CHARTER of the LIBERTIES of ENGLAND, Granted to the People of the same,

By King HENRY *the third*;

And accorded between him and them in diverse full *Parliaments*, as followeth, *viz.*

HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandie, and Guyen, and Earl of Angeow. To all Arch-Bishops, Bishops, Abbots, Priors, Earls, Barons, Sheriffs, Provosts, Officers; And to all Bailiffs, and our faithfull Subjects, which shall see this present Charter, greeting.

Know ye, that We, to the honour of Almightie God, and for the salvation of the souls of our

Progenitours, and Successours, Kings of England, to the advancement of holy church, and amendment of our Realm of England; of Our meer free will, have given and granted to all Arch-Bishops, Bishops, Abbots, Priors, Earls, Barons, and to all Free-men of this Realm of England for evermore. *or*

Cap. 1. Liberties. First, We have granted to God, and by this present Charter have confirmed for Us, and our Heirs for evermore; That the church of England shall be free, and shall have all her whole rights, and liberties inviolable: We have granted also, and given to all Free-men of our Realm, for Us, and Our Heirs for evermore, these Liberties under-written, to have and to hold, to them, and to their heirs, of Us, and Our heirs, for evermore.

Lord *Coke* upon *Mag. Chart.* Fol. 1. *Here be four rehearsals* (saith the Lord *Coke*) *of four notable causes of the making this Law. First, for the honour of God. Secondly, for the health of the Kings soul. Thirdly, For the exaltation of the church. Fourthly, for the amendment of the Kingdom. And all granted to all subjects, and their heirs, from the King and his heirs for evermore; That the great Charter might live, and take effect in all successions*

ceſſions of ages for ever.

The laſt of theſe cauſes which the L. *C.* in his Preamble calleth the ends for which this Charter was made, being for the amendment of the Realm, was (ſaith the L. C. upon the firſt chapter of *confirmatio Chart.* fol. 529.) to amend great miſchiefs, and inconveniences, which oppreſſed the whole Realm before the making of both Charters, *viz.* This, and the Charter of the Forreſt, which (ſaith the L. *C.* in his Preface) were declarative Acts of the old Common-Law of the Land, and no introductives of any new Law. If the miſchiefs, and inconveniencies of the Realm were great before the ſaid Acts were made to declare the Laws of the land, which formerly the lawyers reſerved to themſelves, till then undeclared? Were there not greater ſince thoſe Acts were made, and the Lawes thereby declared, and ſince the accord of King and People, to keep the ſame inviolable, when, and as often as they were violated by Kings, and their Counſel, learned in the Laws? As hereafter ſhall appear. Expoſt and Quer.

Cap. 8. Debt. Debtors. Suerties.

We, nor Our Bailiffs shall seise any lands, or rent, for a debt, as long as the present goods, and chattels of the debtors do suffice to pay the debt, and the debtor himself be ready to satisfie: Therefore shall neither the pledges of the debtor be distrained, as long as the principle debtor is sufficient for payment of the debt; and if the principal debtor fail in paiment of the debt, having nought wherewith to pay, or will not, where he is able enough; Then the pledges shall answer for the debt; and if they will, they shall have the lands, and rents of the debtor, until they be satisfied of that which they before paid for him, except that the debtor can shew himself to be acquitted against the suerties,

L. *Coke* upon *M. C.* fol. 19.

We (saith the Lord Coke) *spoken in the politique capacitie of a King, extendeth to his Successours. And by Bailiffs, are meant Sheriffs, who write* Baliva mea, *&c. And by the words* shall not seiz *is expressed the Kings Grace, who by the* Common-Law *had Execution against his Debtors bodies, lands, and goods. And by the Statute of* 33. Hen. 8. cap. 9. *The Sheriff is to inquire* &c. *and to extend all Lands, Goods, Chattels.* &c. *and to take and imprison the Bodies, as by that Stat.*

Stat. appeareth, and as the daily practice sheweth.

If We extend to Successors, even to King *Hen.* 8. Why not longer? If *Magna Charta* was to live for ever, Why not hitherto? If the King of his Grace remitted by this Act the execution which the Common Law gave him before against his Debtors, Bodies, Lands, and Goods, in case of having nought wherewith to pay, through decay of their estates by unavoidable necessities; then the Kings Debtors obtained of the Kings Grace as much Liberty for their bodies, as this King gave to all his free subjects by the 29th of this Act, *viz. No Free man* &c. And for his Estate, as much as the proverb saith; *where nothing is to be had, the King looseth his due.* If the King did not remit so much by this Act, then did he gain thereby more than he gave, contrary to the opinion of all Lawyers, that say, All Acts of Parliament are to be expounded for the benefit of the Subject. And what, and how did he gain? but contrary to his Honour, much more to his Grace, when two more of his subjects were hedged in Expost and Quer.

by this Act, as Pledges to pay for his undone Debtor, and to undoe themſelves and their families by the bargain. And (their eſtates being too little to pay their own debts) their Creditours muſt ſee the King firſt ſerved out of the ſame, to their no ſmall prejudice, if not undoing, whereby many are injured through one mans occaſion. If therefore this Act ought to be conſtrued for the honour of the King, and benefit of the ſubject (as I believe it ought, and the L. *C.* ſaith, others have thought ſo) it followeth, That the Statute of the 33. *Hen.* 8. 9. was made (as many more were before and ſince) againſt *Mag. Chart.* and not onely againſt Kings honour, and grace, but alſo their Oathes, to the undoing of multitudes of their ſubjects, which was ungracious for their Counſel learned in the Laws, to give advice, or aſſent to the making ſuch Laws, or when made, to allow them, much more to maintain them; being that all Judges are to receive *Mag. Chart.* for a Plea againſt all Statutes made againſt it. And all Judgements given againſt *Mag. Chart.* are, and ought to be void

void; (as appeareth in the L. C. preamble) And all such Statutes as were made before the 42. of *Ed.* 3. against *Mag. Chart.* were then repealed: and (as I conceive) all made so since, are repealed by the Petition of Right, 3. *Car.* that restored *Mag. Char.* to its primitive vigor, and consequently enervated all its opponents.

The City of London shall have the old Liberties, and customs which it hath been used to have. Moreover We will, and grant, that all other Cities, Burroughs, Towns, and the Barrons of the five Ports, and all other Ports, shall have their Liberties, and Free-customs. Cap. 9. *London* &c.

This Chapter (saith the Lord *Coke*) *is excellently interpreted by an ancient Author* (quoting the *Mirrour* in the Margent) *who saith, that by this Chapter, the Citizens of* London *ought to have their Franchizes, whereof they are inheritable by loyal Title, of the gift, and confirmation of the Kings, which they have not forfeited by any abuse; and that they shall have their Franchizes, and Customes, which are sufferable by right, and not repugnant* L. C. upon *M. C.* fol. 20.

by this Act, as Pledges to pay for his undone Debtor, and to undoe themselves and their families by the bargain. And (their estates being too little to pay their own debts) their Creditours must see the King first served out of the same, to their no small prejudice, if not undoing, whereby many are injured through one mans occasion. If therefore this Act ought to be construed for the honour of the King, and benefit of the subject (as I believe it ought, and the L. *C.* saith, others have thought so) it followeth, That the Statute of the 23. *Hen.* 8. 9. was made (as many more were before and since) against *Mag. Chart.* and not onely against Kings honour, and grace, but also their Oathes, to the undoing of multitudes of their subjects, which was ungracious for their Counsel learned in the Laws, to give advice, or assent to the making such Laws, or when made, to allow them, much more to maintain them; being that all Judges are to receive *Mag. Chart.* for a Plea against all Statutes made against it. And all Judgements given against *Mag. Chart.* are, and ought to be void

void; (as appeareth in the L. 6. preamble) And all such Statutes as were made before the 42. of *Ed.* 3. against *Mag. Chart.* were then repealed: and (as I conceive) all made so since, are repealed by the Petition of Right, 3. *Car.* that restored *Mag. Char.* to its primitive vigor, and consequently enervated all its opponents.

The City of London shall have the old Liberties, and customs which it hath been used to have. Moreover We will, and grant, that all other Cities, Burroughs, Towns, and the Barrons of the five Ports, and all other Ports, shall have their Liberties, and Free-customs. Cap. 9 *Lond* &c.

This Chapter (saith the Lord *Coke*) *is excellently interpreted by an ancient Author* (quoting the *Mirrour* in the Margent) *who saith, that by this Chapter, the Citizens of* London *ought to have their Franchizes, whereof they are inheritable by loyal Title, of the gift, and confirmation of the Kings, which they have not forfeited by any abuse; and that they shall have their Franchizes, and Customes, which are sufferable by right, and not repugnant* L. C. upon M. C fol. 2

to law: And the ſame interpretation ſerveth for the Cinque-ports, *and other places.*

Expoſt and Quer. Doth not this Charter, and chapter ſufficiently declare, and Lawyers (though unwillingly, yet plainly) confeſs, that *London* and the reſt, had old Liberties and cuſtomes, and that they are inheritable thereof, and ought ſtill to have the ſame, ſo long and ſo far, as not repugnant to Law, (which I conceive to be this Law, and not any that have been made ſince againſt it?) And do not the ſeveral Charters of *London*, and other Cities and Towns, obtained ſince this Law, declare further what thoſe Liberties, and Cuſtoms were? And if the Kings learned Councel have conſented that he ſhould grant, or Profeſſors of the Law adviſed Londoners, or any other Citizens, to aſk things repugnant to this Law, and prevailed with both parties? Have they not miſled both parties? And though they have ſo done often; yet in this caſe, doth not the Statute of the 19th of *Henry* 7. chap. 7. help the offendors with leſs danger than the forfeiture of their Cuſtoms, and

Liberties

Liberties, if they offend especially but in those points, which their lawyers so much misadvised them to ask, and the Kings, him to grant?

Common-Pleas shall not follow Our Court, but shall be holden in some place certain. Ca. 11. Common-Pleas.

Before this Statute (saith the Lord *Coke*) Common-Pleas *might have been holden in the* Kings-Bench, *and all Writs returnable into the same* Bench; *And because the Court was holden* coram Rege, *and followed the Kings Court, and removable at the Kings will, the Returns were* Ubicunq; fuerimus in Angliâ; *whereupon many discontinuances ensued, and great trouble of Jurors, charges of Parties, and delay of Justice; for this cause this Statute was made,* &c. *And Pleas of the Crown were divided into high Treason, Misprision of Treason, Petty Treason, Fellony,* &c. *and limited to this Court, because* contrà coronam, & dignitatem, *&c. So that of these* (the Lord *Coke* saith) *the* Common-Pleas *cannot hold Plea. But to shew that* Common-Pleas *may be holden in the* Kings-Bench, he saith, *That* L.C. upon M.C. fol. 22, 23.

the King is out of this Statute, and may sue in that Court. Secondly, *If a man be* in Custodia, *any other may lay upon him any Action of debt, covenant, or the like personal Action, because that he that is* in Custodia, *ought to have the priviledge of that Court And this Act taketh not away the Priviledge of any Court.* Thirdly, *any Action that is* Quare vi & Armis, *where the King is to have a Fine, may be sued in this Court.* Fourthly, *Replevins may be removed thither.* Fifthly, (saith the Lord Coke) *Albeit originally the* Kings-Bench *be restrained by this Act, to hold Plea of any Real action yet by a mean, they may; as when removed by Writ of Error from* Common-Pleas, *thither for necessitie, lest any party that hath right should be without remedie, or that there should be a failer of Justice; and therefore Statutes are alwaies to be expounded so, that there should be no failer of Justice.*

Expost and Quer. Do not the L. C. words, viz. (*Before this Statute*, &c.) imply, that after the Statute, *Common-Pleas* ought not to be holden in the *Kings-Bench*, nor all Writs be returnable into the same *Bench*? Doth the Register

giſter, or *Natura brevium* therefore ſhew any Writ for debt returnable to the *Kings-Bench*? Doth not *Fitz. H. natura brevium* fol. 119. h. & k. declare that there is no Writ in Law for debt, but a *Juſticies*, which is a judicial Commiſſion to the Sheriff to determine the matter, *Nè amplius indè clamorem audiamus*: So that the *Kings-Bench* ought not to be troubled with the matter at all? or if an Original returnable to the *Common-Pleas*? Doth not that Original declare it ſelf to be a Summons? And doth not Mr *Kitchen* in his *Ret. brev.* fol. 4. *Tit. com. bank*, declare, that Summons, Atachment, and Diſtringas, ſucceſſively diſtant fifteen days one after another, is the onely Proces at Common Law? The *Kings-Bench*, and *Common-Pleas* ought to practiſe by the Common Law, declared by *Mag. Chart.* and accord of the King and People; declared and injoyned to be obſerved inviolable, and immutable for ever. Did ever any Judge of the *Kings-Bench*, or *Common-Pleas*, adviſe, or conſent to the making any Statute, or Law to the contrarie, (being ſworn to execute and maintain *Mag. Chart.*

as

as anon ſhall appear all were, or ought to be) and was not perjured? Did, or doth any Judge of any Court of *Record*, obſerve any ſuch Law being ſo made; or practice, or ſuffer to be practiſed (where he hath authoritie) any ſuits or proceedings contrarie to *Mag. Chart.* and was, and is he not perjured? Doth not the practice of the *Kings-Bench* ſtill ſhew, that thence doth iſſue no other Writ for debt, than a Bill of *Middleſex*, or Latitat, which expreſs themſelves to be for Treſpaſs? Are not thoſe Writs ſtill returnable *ubicunquè fuerimus*, and the *Kings-Bench* therefore ſtill removeable at the Kings will? whereupon (as ſaith the L. *Coke*) many diſcontinuances enſue, and great trouble of Jurours, charges of Parties, and delay of Juſtice; for which cauſes (he ſaith) this Statute was made. How doth this Statute (if therefore made) prevent ſuch diſcontinuances, trouble, charges, and delay of Juſtice, but by declaring, that *Common-Pleas* ſhall not follow the *Kings-Bench?* How contradictorie to himſelf is the L. *Coke* then, when he laboureth to make *Common-Pleas* lawfull to be holden in the *Kings-Bench?*

Bench? And if (as he ſaith) the *Pleas* of the Crown were divided into high Treaſon, Miſpriſion of Treaſon, Petty Treaſon, Fellonie, *&c.* & limited to the *Kings-Bench*, becauſe *cont. Coron. & dign. Regis*; ſo that of theſe (ſaith he) the *Common-Pleas* cannot hold *Plea*. By what Juſtice can he deſire to hold *Common-Pleas* in the *Kings-Bench*; unleſs becauſe more gainfull, (as when he was ſupplanted by his ſucceſſour, under colour of preferment, from the *Common-Pleas* to the *Kings-Bench*, he paſſionately expreſſed the difference, ſaying, That he was called from the warm kitchen, to the cold hall:) and that therefore he deſired to reduce Juſtice to his deſire, rather than his deſire to Juſtice? But let us examine his Arguments for that purpoſe. Firſt, (ſaith he) The King is out of this Statute. How? out of this Statute, which above all other, the King was ſworn to obſerve, and obey, and to violate was perjurie, and puniſhable in all men without regard of perſons, and no leſs in the Lo. *C.* to ſay and write otherwiſe? But (ſaith he) the King might ſue in his *Bench*. And ſo might he in any Court of *Record* which he pleaſed;

pleaſed; for all ſuch Courts are called his, and have power under him, to adminiſter Juſtice to all men, according to their Commiſſions and Charters, as well as the *Kings Bench*; and therefore he had his Atturneys, and Sollicitours, attending many ſuch Courts. Secondly, (ſaith he) if a man be *in cuſtodia*, any other may lay upon him any action of debt *&c.* becauſe (ſaith he) that he that is *in cuſtodia*, ought to have the priviledge of that Court. Now if a man be *in cuſtodia* for Fellonie, *&c.* and an Action for Debt, &c. be laid upon him, ſhall his priviledge in being *in cuſtodia* keep him from hanging (if he deſerve it) till he pay the debt? or if he be hanged, and have any goods, ſhall the Creditour be paid his debt out of the ſame; or if he have any lands, out of the *Eſcheat?* I believe not. If a man be not *in cuſtodia*, but a Juſtice of Peace, or a Grand-Juror, attending Seſſions in *Cumberland* or *Cornwall*, what priviledge of this Court doth he need? If he be arreſted there, upon a Writ of treſpaſs, when he is guiltie of none, is he not more diſgraced than priviledged by this Court?

Court? when he is forced to appear in this Court for treſpaſs, and nothing declared againſt him for any ſuch matter, ought he not to be diſmiſſed for that matter, with coſts, and dammages, anſwerable to his diſgrace and expences, though arreſted at the Kings ſuit? Shall the King do any man wrong? how then doth the Maxim hold, that he cannot? Shall this Court abuſe his name, to wrong his Subject? Is not Injuſtice, Perjurie in a Judge ſworn to do Juſtice? Is not all againſt *Mag. Chart.* and truth, which is, God himſelf? If not ſo diſmiſſed, ſhall a declaration be admitted againſt him upon an Original for debt, where neither ſuch Writ, nor cauſe belong? And ſhall the Defendant be inforced to wait upon his Bail for treſpaſs, to anſwer that Declaration? is not that more Injuſtice? And moreover, if that Writ, or the Return thereof be forged, (as all, or moſt Originals directed to the Sheriffs of *London* or *Middleſex*, are; aſwel by Clerks of this Court, and ſo filed upon Record here as by Attorneys in the *Common-Pleas*, there;) ſhall that Declaration be admitted to ſay, that the Defend-

Defendant is *in custodia*, (which
false;) and be made a Record, whic
would be accounted the next trut
to Gospel? And shall not the Defen
dant be admitted to plead *Mag. Ch.*
against the jurisdiction of the Cour
and such lying Records? If not; i
not all this more Injustice and Per
jurie? Shall Judges give Judgement
upon false Records (except to burn
them, and punish the makers, and
causers) and shall not they be count
ed, and called false Judges, and Per
jurers; and their judgements false
judgements and perjuries? Shall
they, that commit Debtors into
their Marshals custodie, upon such
judgements by their priviledge (as
they call it,) say that this Statute
doth not take away such priviledges,
when the Lo. C. himself saith, that all
Statutes ought to be expounded so,
that there should be no failer of ju-
stice; and this Statute, being *M. Ch.*
(chief of all Statutes) and all its
Confirmations say, that equal justice
ought to be done to all men, with-
out regard of persons? What Sta-
tute or custom did, or can give any
priviledge to any Court to the con-
trarie? What benefit of priviledge

hath

th the Debtor, that is so committed by this Court, and its priviledge, but his undoing, and his families, and often his untimely death by famin, and miserie? Is not that so occasioned by the rigour, and illegalitie of this Court, an offence of the highest nature, of Murther and Perjurie? Who gaineth any thing by this priviledge, but the Court, and their Marshal in extorted Fees, to the dammage of both Creditor and Debtor, and often the ruin of both either? Why therefore doth the .. C. call it a priviledge to the party n Custodie, when it appeareth to be no benefit, but prejudice unto him, and that more aggravated, to have more Actions laid upon him for more debts occasioned (perhaps) by his imprisonment? What law, or reason requireth any priviledge to any man for debt, since this Statute in the 29 chapter, freeth all mens bodies from imprisonment, untill they be lawfully tried by their Peers? and no law, but an abortive Statute made 25. *Ed.* 3. *cap.* 17. and repealed in the 42 of the same King (as aforesaid) gave an Arrest against Debtors but Merchants and Accomptants? and

and a Statute made in the ſaid 25 year of the ſaid King, gave the Creditors two parts of all their Debtors lands,& all thei goods (except the beaſts of their plough) for ſatisfaction of their debts, which Statute is ſtill in force, and daily executed accordingly? As for Accomptants, Debtors, and Tennants to the King, that are ſo indeed, if the Court of *Exchequer* be thought proper for them; why ſhould others that are not ſuch indeed, be ſheltered to defend or countenanced to offend under that pretence? And as for Members of any Court, why ought not they to ſue, and be ſued by their Atturneys in other Courts than their own, ſince it is unnatural for any bodie to ſuffer any of its Members (though never ſo corrupt) to be put to any ſmart, which it may avoid? And may not, nay ought not every juſt Court avoid ſuch ſuits, and the ſuſpition of their injuſtice by entertaining them, and proceeding therein, by leaving them to the juſtice of other Courts of competent judicature, as all other Courts do leave their Members to the mercy of the Courts at *Weſtminſter*?

or

or may not, nay ought not all Courts of judicature within their juriſdictions, determine the cauſes of all ſuch Members of the Courts at *Weſtminſter*, as ſhall be found, and arreſted within their juriſdictions, notwithſtanding any Writs of priviledge, or other Writs to remove them, before they be determined; rather than the Courts at *Weſtminſter* may ſend for the Members of every Court, to be juſtified by them? For who can ſay, he hath ever found any juſtice there againſt any priviledged man? And how many that be no Members of any Court there indeed, are ſo countenanced, as ſubordinate to ſome ill Member, or other there, and have their Law for nothing, to bring Fees and gain to one or other of thoſe courts, out of honeſtmens purſes and Eſtates, againſt whom they can ſhew no colour of right any where, but where they know they ſhall be favored, and their Adverſaries oppreſſed? And how many men of good Eſtates have been, and daily are, not onely oppreſſed, but undone by that means? Thirdly, for Treſpaſs, *vi & Armis*; Is it but a common-Plea, and conſequently proper to all courts

courts of Record, and rather to be tryed within that jurisdiction where the offence is committed, than elsewhere? And hath not the King his Fines imposed and levyed by the authority of all such courts, as wel as by the *Kings-Bench*? Fourthly, for Replevins, may they not as well be removed to, and determined by the *Common-Pleas*, as in the *Kings-Bench*? Fifthly, what meaneth the Lord by his words, *viz.* [*Originally restrained*] but that the *Kings-Bench* is restrained from having any original Writs Returnable thither in *Real* Pleas,? And is it not as much restrained from originals in *Personal Pleas*, that are as *Common-Pleas*, as *Real*, by this Statute? Or by what other Statute, Law, or President, is it inabled to have any originals returnable to it for debt, when the Register and *Ret. brevium* have no such Presidents, as aforesaid? Is not therefore all the practice of the *Kings-Bench* for debt, unjust, and perjurious, as aforesaid? and moreover a faint Action, *&c.* as the prisoners for debt in that Court have lately set forth by their Petition to the Lord General, and his Officers concerning this matter.

A

A Free-man ſhall not be ameirced or a ſmall fault, but after the quantitie of the fault, and for a greater fault, after the manner thereof, ſaving to him his contenement, or Freehold: And a Merchant ſhall be likewiſe ameirced, ſaving to him his Merchandize: And any other villain than Ours, ſhall be likewiſe ameirced, ſaving his Wainage, if he fall into Our mercy: And none of the ſaid Ameirciaments ſhall be aſſeſſed but by the oaths of honeſt men of the Viſionage: Earls, and Barons ſhall not be ameirced, but by their Peers, and after the quantitie of their treſpaſs. No man of the Church ſhall be ameirced after the rate of his ſpiritual benefice, but after the rate of his lay tenement, and after the quantitie of his treſpaſs. Caput 14. *Ameirciaments.*

A Free-man here, hath a ſpecial underſtanding (ſaith the L. C.) *and is taken for a Free-holder; and this appeareth by this clauſe,* Salvo contenemento ſuo. *viz. Saving his Free-hold,* &c. *This Act extendeth to Ameirciaments, not to Fines impoſed by any Court of Juſtice,* &c. *Free-men are not intended to officers, or miniſters, or officers of juſtice,* &c. *The writ of* Moderata miſericordia, *giveth remedie to the Partie that is exceſſively ameirced,* &c. *Albeit the Law of* England *is* Lord Cook upon *Magna Charta* fol. 27.

is a Law of mercy, yet it is now turned to a ſhadow; for where by the wiſdom of the Law, theſe Amerciaments were inſtituted, to deter both Demandants from unjuſt ſuits, and Defendants from unjuſt defences, which was the cauſe in former times of fewer ſuits, &c.

Expoſt and Quer. If amerciaments were inſtituted to deter Plantiffs from unjuſt ſuits, and Defendants from unjuſt defences; and were the cauſes of fewer ſuits in former times; how comes the Law turned to a ſhaddow in the Lord *Cokes* time? when in the *Kings-Bench*, and *Common-Pleas*, amerciaments were as frequent, and greivous as in any other time, and ſuits no fewer, nay more numerous than before, (as Records of both Courts declare) unleſs he means that all the Writs in the Regiſter, and *Natura brevium*, both original, and judicial, (whereby ſuits were determined amongſt neighbours friendly at home) became uſeleſs, ſince *Habeas corpus*, &c. carried all to *weſtminſter*? And that there injuſtice ſhaddowed under the name and habit of juſtice, remunerated the litigious ſupporters of her being, with ſuch ſhares

res of her ſpoils, that though ſhe bled their amerciaments, ſhe de them alwaies gainers; unleſs en to ſatisfie their revenge, rather n their purſes, they commuted ir monies for counſels, and coun-nances, to undo the oppoſers of ir malice, whereby both parties came looſers, and often ruined; d injuſtice onely remained the iner, and increaſed her kingdom s the Divel doth his) by ſuch ſui-rs; and made more ſuits for *weſt-inſter*, than all the Courts of Er-rs, and their Judges, Lawyers, and ttorneys there, ſhall wear out hile they live, without extraordina-helps of their ſervants.

No town, or Free-man ſhall be di- C. 15.
rained to make Bridges, or banks, Bridg:
ut ſuch as of old time, and of right Banks.
ve been accuſtomed to make them
the time of King Henry our Grand-
ther.

No Banks ſhall be defended hence- C. 16.
rth, but ſuch as were in defence in Banks.
e time of King Henry our Grand-
ther, by the ſame places, and the
me bounds, as were wont to be in
s time.

Both the next precedent chapters fficiently expound themſelves, ſo that

that the Lord *Coke* ſpeaketh no more to this matter, but that the *Mirrour* ſaith, *That divers Rivers and their Banks were in his time appropriated and blocked up by divers perſons, to debar common-fiſhings, which were wont to be uſed there in the time of King* H. 2. And I believe, there are many more ſo done, more lately, which Commiſſioners for Sewers ſhall do well to look to.

C. 17. Pleas Crown. **No Sheriff, Conſtable, Eſcheator, Coroner, or any other our Bailiffs, ſhall hold Pleas of the Crown.**

L. *Coke* upon *M. C.* 30. *One miſchief before this Statute, was* (ſaith the Lord *Coke*) *That no Court, but the Kings chief Court, could command Biſhops to give their clergy to ſuch as ought to have it: another cauſe was, That the life of a man ought to be tryed before Judges of learning, and experience of the Laws of the Realm; for* Ignorantia Judicis, eſt ſæpenumerò calamitas innocentis. *Theſe are the reaſons that the Lord* Coke *alledgeth, why ſome Pleas of the Crown were taken from Sheriffs, Caſtellans, Eſcheators, Coronors, and Bailiffs, under which names* (ſaith he) *are com-*

omprehended all inferiour Judges, Juſtices, and Courts of Juſtice: albeit (ſaith he) *it be provided by the 9th chap. of* Mag. Charta, *That the Barons of the five Ports ſhould have all their Liberties and Cuſtoms. Theſe general words* (ſaith he again) *muſt be underſtood of ſuch Liberties and Cuſtoms, as are not afterwards in the ſame* Charter *by expreſs words taken away, and aſſumed to the Crown.*

Might not the Kings inferior Courts command ordinary Miniſters to give men their Clergie? And might not that ſerve before *Magna Charta*, as it is uſual ſince? For ſeldom, or never in our memories, did Biſhops themſelves attend any court for that ſervice: and now, ſhould they be neceſſary onely for that imployment? So the Kings Court would be onely to command them: but if Biſhops may be ſpared, why may not that Court for that cauſe? And if by this *Charter* the King reſumed ſome Pleas of the Crown from thoſe that formerly had them; doth it follow, that he reſumed all Pleas from thoſe that formerly had them? And if under the name of Bailiffs be

Expoſt and Quer.

26 comprehended all Judges, and Juſtices, are not the Judges of the *Common-Pleas* and Barons of the *Exchequer* ſo comprehended? And are none of them of ſuch learning and experience in the Laws of the Realm, to try the life of a man, as Judges of the *Kings-Bench*? Or elſe, why are they ſent for Goal-deliveries, aſwel as Judges of the *Kings-Bench* are? Was it not provided by the 9. chapter of *Mag. Charta*, That *London*, and other cities, Burroughs and Towns, as well as the Barons of the five Ports, and other Ports ſhould have their Liberties and Free-Cuſtoms? Are all theſe now reſumed by this 17. chap? Who can underſtand ſo? Or what meaneth the L. *C.* by his riddles? Shall *Magna Charta* contradict it ſelf, though the Lord *C.* would, and doth here and elſewhere? Are not Commiſſions of *Oyer* and *Terminer*, uſual for Tryal of mens lives, where Judges of the *Kings-Bench* cannot reach, or dare not go? Doth not *London* and other Corporations execute their Charters by their Recorders, when the *Kings-Bench* gives them leave; and then do not the Judges of the *Kings-Bench*

Bench grant that such Judges may be as learned, and experienced in the Laws as themselves, for the Trying of mens lives? Are not mens lives Tryable for matter of Fact, and not of Law, (except Treasons that reach to thoughts?) Are not Jurors the Judges of matters of Fact? What great learning, or experience in Law is requisite for a Judge to pronounce the sentence of death, where the verdict hath determined the life? But how many true men have been hanged, and thieves saved by Judges interposing, and obtruding their pestifferous pretended learning and experience in the Laws between the weak consciences of ignorant Jurors, and the truth? which kind of Jurors they make Sheriffs return for such purposes, when they may have such returned as know the Facts, and have sounder learning and experience in expres Law than themselves.

All Wears from henceforth be utterly put down by Thames, and Medway, and throughout all England, but onely by the Sea-coasts. C. 23. *Wears*, &c.

L.C. upon *M.C.* fol. 38. *It was ſpecially given in charge by the Juſtices in Eyre* (ſaith the Lord C.) *that all Juries ſhould inquire of all ſuch as Fiſhed with Wears and Dams: and it appeareth* (ſaith he) *by* Glandvil lib. 9. c. 11. *That when any thing is unjuſtly occupied within the Kings demeſne, or obſtructed in publick waies; or Rivers, turned off their right channels, or Citie-ſtreets built upon; and in general, as often as any nuſance to the Kings holding, or his High-way, or to any Citie, is committed; That is a purpreſture, viz. an Incloſure, whereby one incroacheth, or maketh that ſeveral to himſelf, which ought to be common to all, or many; and every publick River, or ſtream, the Kings High way.*

Expoſt and Quer. If Wears be nuſances (as I am ſure they are) throughout *England*, and *Wales*; and if Commiſſioners for Sewers, and Juſtices of Peace for want of them, be ſufficiently authorized to reform ſuch wrongs, and do not, becauſe chief doers thereof, or ſharers in the unlawful gain made thereof themſelves: why not Juſtices in Eyer imployed to execute their charge, for the general amend-

ment

ment thereof, for the publick good?

One Measure of Wine shall be throughout our Realm, and one measure of Corn, viz. according to the Quarter of London and Haberjects, that is to say, two yards within the list, and as it is of Weights, so shall it be of Measures. C. 25 Measures &c.

This Act concerning Measures, and Weights, that there should be one Measure, and one Weight through England, *is grounded upon the Law of God,* Deut. 25. *v.* 13, 14. *And this by Authority of Parliaments hath been often enacted, but never effected.* L. C upon M. fol.

If Weights and Measures throughout *England* ought to be one, and that not onely by the Law of God (as the Lord *C.* instanceth) but also by this *Charter* of Agreement between the King and the People; Why did not the Lord *C.* (being chief Justice of *England*) sworn to do Law, and Justice too, and between King and People, (as partly before did, and hereafter further shall appear he was, or ought to have been) see this point of Justice, (so highly Exp and Qu

required by the Law of God, and so mutually agreed upon by the Kings of this Land, and their Subjects) duly executed?

Ca. 16. *Inquisition.* **Nothing shall henceforth be given for a Writ of Inquisition, nor taken of him that prayeth the Inquisition of Life, or Member, but it shall be granted freely.**

L. C. upon *M. C.* fol. 42. *A Writ of Inquisition*, viz. De odio & atia, *anciently called* De bono & malo, *&c. which the Common-Law gave a man that was imprisoned, though it were for the most odious cause, for the death of a man, for which (without the Kings writ) he could not be bailed; Yet the Law favouring the Libertie and Freedom of a man from Imprisonment*, &c. *until the Justices in Eyre should come, at what time he was to be tryed; he might sue out this VVrit directed to the Sheriff*, &c.

Expost and Quer. If a Writ *De odio & atia* was given by the Common-Law, to a man Imprisoned for the most odious cause, even for the death of a man; and if the Common-Law favoured the

the Liberty of a man Impriſoned, ſo that he ſhould be Bailed for ſuch a Fact, until Juſtices in Eyre ſhould Try him; Why not ſuch a Writ ſtill? Since *odium* (which the Lord *C.* defineth to be *hatred*) and *atia* (*malice*) and Priſoners for thoſe cauſes are no ſcanter now, than in former times? And why not Juſtices in Eyre (made ſince competent Judges by Commiſſion without Writs) to determine ſuch matters, which before they could but inquire of by Writs (as the Lord *C.* ſaith elſewhere, though he ſaith here to try them,) imployed for that ſervice? And now if it be Lawfull for a Judge of the *Kings-Bench* to determine a debt, and to grant an *Habeas Corpus* for money, to bring the Priſoner before him to put in Bail; Why ſhould he take money for the Writ, and refuſe ſufficient Bail tendred after Oath made of their ſufficiency, without the Plantiffs conſent? Nay after acceptation of the Bail, Why refuſe to File it?

No Free-man ſhall be taken, or impriſoned, or be diſſeiſed of his Freehold, or Liberties, or Free Cuſtoms, or be Outlawed, or Exiled, or Ca2.9. *No Free man &c.*

any way otherwise destroyed; nor we shall not pass upon him, but by lawfull judgement of his Peers, or by the Law of the Land; we shall sell to no man, we shall denie, or deferre to no man, either Justice, or Right.

Lord *Coke* upon *Mag. Chart.* Fol. 46 &c.

Free-man extends to Villains both Sexes, &c. *Upon this Chapter, as out of a root, many fruitfull branches of the Law of* England *have sprung. It containeth nine several Branches: First, That no man be taken or imprisoned, but by the Law of the Land*; viz. *The Common-Law, Statute-Law, or Customs of* England, &c. *Secondly, No man shall be disseised*, viz. *put out of his Freehold, that is, Land, Livelihood, or Liberties, or free Customs, such as belong to him by his free Birth-right; unless it be by the lawfull judgement, and verdict of his equals, or by the Law of the Land, that is (to speak it once for all) by the Due course, and proces of the Law. Thirdly, no man shall be Outlawed, or put off the Law*, viz. *Deprived of the benefit of it, unless he be Outlawed by the Law of the Land. Fourthly, No man shall be exiled*, &c. *unless according to the Law of the Land.*

Land. Fifthly, No man ſhall be deſtroyed &c. unleſs by verdict, or according to the Law of the Land. Sixthly, No man ſhall be condemned, &c. but by the judgement of his equals, or according to the Law of the Land. Seventhly, we ſhall ſell to no man, Juſtice, or right. Eighthly, We ſhall denie no man Juſtice or right. And Ninthly, We ſhall deferre no man Juſtice or Right, &c.

Expoſt and Quer.

Firſt, If no man ought to be taken, or impriſoned but by the Law of the Land, *viz.* the Common-Law, Statute-Law, and Cuſtoms of *England*? is it not cleared by our Expoſtulations before upon the 11. Chapter, that Debtors are taken, and impriſoned in the *Kings-Bench*, contrarie to the Common-Law of *England*, declared by *Mag. Chart.* contrarie to the chief Statute of *England*, which is *Mag. Char.* and which the Lord *Coke* ſaith, ſhould live (as was accorded by King and people) for ever? And contrarie to the Cuſtom of *England* declared by *Mag. Charta*, and alſo by the Lord *Coke*, not to extend to the impriſonment of any

Debtours, but onely the Kings. And are not Debtors, other than the Kings, so imprisoned, as well elsewhere, as in the *Kings-Bench?* Secondly, if no man shall be disseised, *viz.* put out of his Freehold; that is to say, His Livelihood, Liberties, or Free-Customs, such as belong to him by his Birth-right; unless it be by the lawfull judgement, and verdict of his equals, or by the Law of the Land, that is to say, (once for all) by Due course, and Proces of Law. Are not Debtors disseised of their Livelihood, Libertie, and Freedom which belonged unto them as their Freehold by Birth right, when they are imprisoned in *London*, *Westminster*, or elsewhere, by Arrests, and Actions for Debt, whether due, or not, upon meer suggestions of Adversaries, not so much to Judges, as to Catch-pols, without any judgement, or verdict of their equals, and without Due course, or Proces of Law, which should be Summons, Attachment, and Distringas, before any Arrest, as aforesaid? Are they not taken in the Countrey from their Ploughs, which are their Livelihood, and their Countreys, and their Free-

hold

hold by Birth-right; by vagant Bum-baylies, and impriſoned there, till they give bail to appear at *Weſtminſter*; and thence, inſtead of being remanded home to their ſweet Farm-houſes, large fields, and induſtrious Agricultures; are they not ſent to ſtinking Goals, cloſe dungeons, and idle Monk-cels, whereby they are allowed little more ground to walk upon while they live, than might ſerve them to lie under, when they are dead? Are not all the Corporations of *England*, and their free-choſen Officers, (that ſhould do them juſtice at home) diſſeiſed of their Freeholds by Birth-right, and Charters, before and ſince *Mag. Char.* when they are prevented of the adminiſtration of juſtice in execution of their Offices to which they were ſworn, (and heritable ſucceſſively from their Anceſtours by Cuſtom long before *Mag. Char.* and ſince confirmed by the ſame, and by Charters dated before, and ſince) by *Certioraries*, *Habeas Corpus*, &c. before Judgement; and pretence of Errors after; and though never any proved, or aſſigned, yet the cauſes never remanded, but detained at

weſt-

Weſtminſter, where the uſual correction of pretended Errours, is not by making any thing that is crooked, ſtraight; but all that is ſtraight, crooked; ſo that both Plantiffs, and Defendants give their titles for loſt in a miſt commonly; but he that hath the wrongfull poſſeſſion, and money, holdeth it; and he that hath the right, and no money, goes to his grave without it? Are not all the People of *England* diſſeiſed of their Freehold, Liberties, Franchiſes, and Free cuſtoms, when they are deprived of that juſtice which they ought to have adminiſtred amongſt them at home, by virtue of the Kings Writs (original for Enquiries, and judicial for Determinations) directed to Sheriffs of their own choiſe, in their own Counties, or Stewards of Hundreds, and Court-Barons, in their precincts, where the Free-holders themſelves are Judges themſelves, by ancient Common Laws, and Cuſtoms of *England*, before *Mag. Char.* and by it declared, and confirmed unto them as aforeſaid? Can Writs of treſpaſs executed for debt; or Capiaſes, grounded upon counterfeited Originals, be conſtrued by any

Law

Law, to be due Proces of Law? Thirdly, Are men lawfully Outlawed upon Exigents for debt, grounded upon a repealed Statute? and are not all Debtors that are Outlawed, so Outlawed? Are men lawfully Outlawed, that are Outlawed upon Exigents, grounded upon *Summonitus*, or *Non est inventus*, counterfeitly returned by Attorneys, who at the time of the return were no Sheriffs, or competent officers? and are not all, or most Debtors, and Trespassers, that are Outlawed in *London* and *Middlesex*, so Outlawed? Are men lawfully Outlawed upon any Exigents, that are Outlawed without the judgement of the Coroners of the Countie wherein they are Outlawed? Are the Coroners of any Countie now adays, present at every, or any Countie, when, and where men are Outlawed? Are not their names nevertheless returned as Judges of every Outlary unknown to them, for the most part, or all? Are not those Returns false, and forged? and are such proceedings, the due course, and Proces of Law? How many thousands of the Free-men of *England* are Outlawed yearly, by such means? and how many

ny of them undone, before they can reverſe them? How many are impriſoned thereupon, and have all their eſtates ſeiſed for the King, by Sheriffs choſen without the conſent of the People? and often ſuch as purchaſe their Offices, to gain by ſuch means? How many Outlawries yearly are ſo clandeſtinely carried, that the parties ſo Outlawed, can hear nothing thereof, before they be impriſoned, and their eſtates deſtroyed as aforeſaid? How many are further damnified by ſuch Outlawries, procured of purpoſe, to debar them of their juſt ſuits in all Courts, until they reverſe them? How chargeable are reverſals thereof? What lawfulneſs is it, or what honour, for the Courts at *Weſtminſter*, to make unlawfull profit of ſuch unlawfull practiſes? Cannot the Judges at *Weſtminſter* be contented to have counterfeit Returns of their Originals in *London* and *Middleſex*, but they muſt alſo have the like Returns of their Exigents throughout the Kingdom? Are not ſuch Returns falſe, and perjurious in the Sheriffs that make them? Is it not ſufficient for Judges, to perjure themſelves, but that they muſt

uſt animate others to do ſo too, by
ot puniſhing them, when they
now that practiſe? Are not the
heriffs of *London* and *Middleſex*,
nd all the Coroners of the King-
om made liable by this practiſe to
ctions of the Caſe, and to pay coſts
nd dammages to the parties grie-
ed? Are ſuch Judges, Lawyers, *&c.*
or the Peace, or Profit of the Com-
non-wealth, that beget, foment, or
ffer the cauſes of ſuch Actions,
auſeleſly, but for their own ends
nd gains? Are ſuch Courts to be
alled, or counted Courts of Juſtice,
hat maintain any Actions, or Arreſts
pon unjuſt grounds, or colour of
ny miſ-begotten Laws, contrarie to
Mag. Charta? Are not Aſſaults, Bat-
eries, Reſcues, Riots, and Homi-
ides, frequent upon ſuch Arreſts?
re not many mens lives loſt, and
nore hazzarded, and their eſtates
uined thereby? And if a Catch-poll
e killed for making, or attempting
uch unlawfull Arreſt, do not the
udges uſe to adjudge it wilful Mur-
her, though the wronged party doth
ut endeavour his juſtifiable de-
ence? And have they not begotten
Statute for officers to plead the
General

General iſſue, by colour of which they juſtifie themſelves, and their creatures, and condemn the guiltleſs? Are not the cauſers of Murther, as worthy to be hanged, as the doers? Are not they that maintain ſuch Arreſts, to the ſame ends as their Predeceſſors, Imps of the ſame generation? Why therefore their advice deſired, or received in ſuch matters? Are not the Releaſes of Errors, which Priſoners are forced to ſeal before they can be inlarged, rather proofs of their guiltineſs, than acquittances of ſuch practitioners? Are not their Errors manifeſt to be wilfull, and gainfull onely to themſelves, and hurtfull to the Commonwealth? are ſuch Errors, or Proceedings, to be called Due courſes, or Proces of Law? Then (to ſpeak once for all) is not the Due courſe, and Proces of Law obſtructed, and perverted? and a wrong courſe practiſed, full of Errors, Lies, Forgeries, Perjuries, &c. (as alreadie appeareth, and better ſhall hereafter) and cannot Law be executed without ſuch practiſes? Doth not *Mag. Char.* and all its confirmations, ſhew how it may? Are not they ſufficient lights,

and

d guids for the Due courſe, Proces,
nd Proceedings which ought to be
ſerved, in the right execution of
aw? And doth not the Lord *Coke*
onfeſs them to be ſuch, and that
ey never miſguided any man, that
rtainly knew them, and truly fol-
wed them? Fol. 526. Fourthly, *If*
man ſhall be exiled, &c. Are not
ebtors exiled from their Native
ils in *Cumberland*, or *Cornwal*, and
om all their wordly comforts, of
ifes, Children, Families, Friends,
d Eſtates, both Real, and Perſo-
l when called, and forced by *Ha-*
as corpus &c. to attend Duke *Hum-*
y in *Pauls*, or Judge *Owen* in *Weſt-*
nſter (as good dead as any Judges
ing) to hear or diſpatch Suits by
e Law of the Land in any way of
ſtice, while the Suitors money
ts; or to relieve them with any
ms, when their Purſes are ſpent?
nd if at laſt ſent to the *Fleet*, or
a ſhalſie, where they be pent up
aforeſaid; are they not worſe Ex-
d than into *Turkie*, where they
y have more Liberty of Land and
a, and live in leſs Slavery than un-
r Goalers in *England*, and have
ore hopes to return home again
(like

(like Sir *Thomas Shirley*, and many others) than from theſe Hells, whence few find Redemption? Had *Henry* of *Bullingbrook* been Impriſoned for Debt here, (as ſuch now are) when he was baniſhed to *France* could he have hoped to be King of *England*, except he had made all his Judges, and Goalers, the beſt ſharers of all his Uſurpations, as all the cheating Priſoners in theſe places do theirs, as they and their Creditors can beſt tell, by dear, and daily experience? Fifthly, *If no man ſhall be deſtroyed*, &c. *unleſs by Verdict*, &c. Are not all Priſoners for Debt, who are firſt forced themſelves to deſtroy their ſmall Eſtates to buy bread to eat in Idleneſs, and to pay Fees to Goalers, *&c.* and at laſt to Famiſh in the *Fleet*, or *Marſhalſey*, &c. deſtroyed both in Lives, and Eſtates, and their Families to boot, without any Verdict given, or intended for their Lives? Nay are not all the Free-men of *England*, that are, or may be ſubject to Debts, conſequently ſubject to the like deſtruction? And worthy ſo long as they ſuffer the Laws of *England*, (contained in the glorious Fabrick of the *Great* Charter

f the Liberties of England, built
heir Anceſtors for a perpetual
ument of their care of their Po-
ty, and their Liberties for ever)
e thus deſtroyed by an Hypocri-
Generation of Phariſaical Pre-
lers to the onely knowledge of
e Laws, which by that pretence,
thus pervert, to deſtroy all ho-
men whom it ſhould ſave, and
ve all whom it ſhould deſtroy or
ſh; and that for unlawful re-
ts, and conſiderations tending
y to their own profits, and ends.
hly, *If no man ſhall be condemn-*
&c. *but by the judgement of his e-*
s according to the Laws of the
d; Are not all Debtors that are
iſhed as aforeſaid, Condemned
heir Lives in effect, though but
heir Debts in appearance, with-
any Verdict of their equals, ſo in-
led, contrary to the Law of the
d? Seventhly, do not all the
ges at *Weſtminſter*, ſell Juſtice,
n they ſell Priſoners for Debt,
Writs of *Habeas Corpus*, &c. for
ey, when the King would have
is Writs of Grace to be given to
ubjects *Gratis*, and no Judge to
any Fee, or Reward for any
thing

thing but of himself? Eighthly, Do they not deny Justice when they deny such Writs *Gratis*? Ninthly, Do they not defer Justice, when they detain poor men that are Bailable in Prison, while they have sufficient men ready to tender for their Bail, till they be forced to borrow money of other friends, and to send far, and stay long before they can receive it to loose their Bail in the interim, and be forced to seek others; by which delays, their Goalers Fees increase, and their Dyet, Lodging, and Expences draw charges, which they might have saved to find Bread for their Wives and Children at home; who perhaps are forced to fast by that means, and to sell, or pawn their Cows, or Clothes for this money, this damnable money, thus extorted by a Judge, for scribling his Infamous name to a Writ, which doth but wrap a man, and his cause, faster in his clouches? O Mercilefs, Miserable, Mercinary Judge! that can neither give, nor lend so little as his name, to so much goodness in Policie, (if not in Charity) to give a man Liberty to breath, and take leave of his Home, upon security of more

more advantage both to Court, and Party, than his imprisonment to return to his Pinfold. *Radamanth* himself abhorreth such foolish covetousness. Do they not defer Justice, when by their Writs they cause Indictments, Informations, and just Suits Commenced in other competent, and more proper Courts in all parts of the Kingdom, to be removed to *Westminster*, and there detained without any Tryal these 40 years? How many thousands of Papists, and heinous Malefactors that should have been punished in, and by their Counties, and Courts at Home, have by this means found *Westminster*, and its Courts, their onely Sanctuaries, and Priviledges for none but Eminent, Opulent, Impenitent Offendours? But is not Justice denyed, when any Bailable man is denyed to be Bailed? Or more, when Bail is accepted upon Oath for its sufficiency, and is denyed to be Filed, and the Party so Bailed in Law, detained Prisoner still, at the Judges, and Plantiffs pleasures? Briefly, Is not the Administration of all the Law, and Justice in *England*, Ingrossed and Mono-

Monopolized at *Westminster*, where the Judges and Courts assume to be chief, and do exercise a plenary jurisdiction over all others, so that they suffer none but themselves to erre, or to abuse Law; nor any to accomplish any Justice, or to reform any Errors, but onely themselves, who do pretend to correct all in their *Exchequer-Chamber*, where instead of correcting any, they confirm their own; which must be all as aforesaid. Lastly, is it unknown that they were wont to Buy their Offices of the Kings Servants, and therefore to Sell their Under-Offices to their own Servants, Attorneys, *&c?* And was not this the Buying and Selling of Justice that is yet unpaid for, & had need to be Reformed? Is it any reason that any should Buy Justice, and not Sell it for gain by the Bargain? Is it not Bought to that end? Is it not to that end, Judges neglect to give Attorneys their ancient Oath, whereby they were wont to be Sworn to do no Falshood, nor cause any to be done in their Courts; and if they knew any, to give knowledge thereof to the Judges, *&c.* that they should increase no Fees, *&c.* (as you

ou may read it at large in the latter
nd of the *Attorneys Academy*. Is it
ot to the ſame end that Judges neg-
ect to give all Plantiffs for Debts or
reſpaſs, their Oaths that the Debt or
reſpaſs amounteth to 40ſ or more
elſe let the Suit be Tryed in the
heriffs Court at home, according to
he *Stat. of Gloc. 6. Ed.* 1. c. 8? And is it
ot likewiſe to the ſame end, they
neglect to take ſecurity of all Plan-
iffs, to proſecute all Actions with ef-
ect, or pay Coſts and Damages to
he Defendants, if they prove not
heir Iſſues? which Judges ancient-
y uſed to do, and ſtill ought, before
ny Declaration be admitted, or
Plea required, as ſaith the *Mirror of*
Juſtice? fol. 64. b. Is it not to the
ame end the *Chancery* neglecteth to
ake the Oath of all Complainants to
make good their Bills in all points,
or pay Coſts and Damages in caſe
hey fail, and that before any *Sub-pœ-*
na be granted them, according to
he Statute 15. *H.* 6. cap. 4°? And
were not all well ended, if all the
nd were that none were forſworn
or Injuſtice, but the chief Juſtices?
(though comfortleſs for them to be
o wretched as to have no aſſociates,)

is

is it not the worse for the People, that their Ministers which ought to be Sworn as aforesaid, are not? Whereby old Attorneys without hazard of Perjury, lead young Judges Sworn to what they know not, to do what they should not? as when so many subtil and lying *Mercuries*, direct so many covetous and blind *Cupids* to shoot forth their arrows, that they may stick them where they please, and commend the shooters for hitting the marks that yield them the best sports of the gain?

The rest of this *Charter* I shall omit as aforesaid, for the reasons aforesaid, and shall conclude this with the beginning of another, made in Confirmation, Renovation, and Perpetuation thereof, by King *Edward* the first, in the 28 year of his Reign, as followeth: *viz.* EDWARD by the Grace of God, King of England, Lord of Ireland, Duke of Guyen. To all Arch-Bishops, &c. greeting. We have seen the great Charter of the Lord Henry our Father, of the Liberties of England in these words: And so beginneth the *Charter* as aforesaid, and endeth this, and it together, saying, We ratifying and approving these gifts, and grants aforesaid, confirm, and make

make ſtrong the ſame for us, and our Heirs perpetually, and by tenor of theſe preſents renew the ſame, Willing, and granting for Us, and Our Heirs, that this Charter, and all and ſingular its Articles for evermore, ſhall be ſtedfaſtly, and inviolably obſerved; And if any Article in the ſame Charter conteined yet hitherto peradventure hath not been obſerved, nor kept; We will, and by Our Authoritie Royal command from henceforth firmly they be obſerved. Theſe, &c. being witneſſes. Given at Weſtminſter under Our own hand the 28 of March, in the 28 year of Our Reign.

Again, where the L. C. maintaineth the Statute of *Marlebridge* made 51 *Hen.* 3. cap. 5. which ſaith, *The great* Charter *ſhall be obſerved in all its Articles, as well in ſuch as pertain to the King, as to others, and that ſhall be enquired of before the Juſtices in Eyre in their Circuits, and before Sheriffs in their Counties when need ſhall be, and writs ſhall be freely granted againſt them that do offend, before the King, or the Juſtices of the Bench, or before Juſtices in Eyre, when they come into thoſe parts*, &c. *And the offendors when they be convict ſhall be grievouſly puniſhed by our ſovereign Lord the King, in form above mentioned.*

Expoſt and Quer. I ſhall but ask, Why not Juſtices in Eyre ſtill? And why not Writs *Gratis* ſent to the Sheriff of every Countie, to enquire of offences, and offendors againſt the great *Charter?* And doth not this Statute prove, that Sheriffs ought to have ſuch Writs, and to make ſuch enquiries? And that the King referred himſelf, as well as others, to the judgements, as well of Juſtices in Eyre, as of the Juſtices of the Bench? and that he would have his Writs granted as well againſt him, as others, and that *Gratis*? doth it not futther prove, that Kings accounted the Juſtices in Eyre, his Juſtices, and their Court, his Court; as well as the *Kings-Bench* how therefore doth the Lord *Coke* hereafter call them new Juſtices, and their Court, new Court? But more of that in its place.

Now having done with ſo much of *Mag. Charta* as I promiſed: and with the 5 Chapter of the Statute of *Marlebridge*: and the 8 of the Statute of *Gloceſter*. Here enſueth the Confirmation of the great *Charter*, made at *London* 10 *Octob. Anno* 25. *Ed.* 1. three years before that which is

is Printed before it, becauſe that containeth all the *Charter* in 38. chapters at large, and this but 7. In the Firſt of which it confirmeth both *Charters*, and every Article thereof, both made 9° *H.*3. in general words, as followeth, *viz.*

Edward by the grace of God, King of England, Lord of Ireland, and Duke of Guyen. To all thoſe that theſe preſent Letters ſhall hear or ſee, Greeting: Know ye, that We to the Honour of God, and of Holy Church, and to the profit of Our Realm, have granted for Us, and Our Heirs; That the Charter of Liberties, and the Charter of Forreſts, which were made by the Commonalty of the Realm, in the time of King Henry Our Father, ſhall be kept in every point without breach. And We will, that the ſame Charter ſhall be ſent under Our Seal, aſwel to Our Juſtices of the Forreſt, as to others; And to all Sheriffs of Shiers, and to all Our other Officers, and to all Our Cities throughout the Realm, together with Our Writs, in the which ſhall be contained that they cauſe the foreſaid Charters to be publiſhed; And to Declare to the People, that We have confirmed them in all points. And that Our Juſtices, Sheriffs, Majors, and other Miniſters, which under Us, have the Laws of Our Land to guid, ſhall allow the ſame Charters Cap. 1. *Charters.*

Pleaded before them in Judgement, in all their points, : That is to wit; The Great Charter, as the Common Law; And the Charter of the Forrest, for the Wealth of Our Realm.

L. C. upon *Conf.* 6. f. 526.

The Title of this Statute (saith the Lord *Coke*) *is* Confirmationes Chartarum de Libertatibus Angliæ & Forrestæ, viz. *The Confirmations of the Charters of the Liberties of* England, *and of the Forrest: And true it is* (saith he) *that hereby the said* Charters *are expresly confirmed; but they are also excellently interpreted,* (*which is a Confirmation in Law*) *for here is nothing Enacted, but is included within* Magna Charta. *And by the Commonalty* (saith he) *is to be understood, by the consent of all the Realm, by Authority of Parliament: and many times by the Commonalty of* England, *is signified an Act of Parliament,* &c. *before Printing, and before the Reign of King* Hen. *the* 7th, *Statutes were Ingrossed in Parchment, and by the Kings Writ Proclaimed by the Sheriff of every Countie: this was the ancient Law of* England, *that the Kings Commandments issued, and were published in form of Writs* (*as then it was.*) *An excellent course, and worthie to be restored,*

ſtored, &c. *This Clauſe* (ſaith he) *is worthie to be written in letters of gold*, viz. *That our Juſtices, Sheriffs, Majors, and other Miniſters, which under us have the Laws of the Land to guid them ſhall allow the ſaid* Charters *in all points, which ſhall come before them in Judgement. And here it is to be obſerved, That the Laws are the Judges Guides, or Leaders, according to that old Rule,* Lex eſt Exercitus Judicum, viz. *The Law is the Judges Armie:* Tutiſſimus Doctor, viz. *The ſafeſt Teacher: or* Lex eſt optimus Iudicis Synagogus, viz. *Their beſt Synagoug. And* Lex eſt tutiſſimus caſſis, viz. *Their ſafeſt Fortreſs. There is an old legal word* (ſaith he) *called* Guidagium, viz. *Guidage, which ſignifieth an Office of guiding Travelors through dangerous and unknown ways. Here it appeareth that the Laws of the Realm, hath this Office to guid the Iudges in all cauſes that come before them, in the ways of right Juſtice, who never yet miſguided any man that certainlie knew them, and truly followed them. The ſence of the words, That the great* Charter *is to be holden for the Common Law, is, that it is a Common Law to all, in amendment of the*

Realm; that is, of great miſchiefs, and inconveniencies, which oppreſſed the whole Realm, before the making thereof.

Expoſt and Quer. Doth not the Lord *Coke* by all this his expreſſion, commend this Statute very highly? Why did he not in his duty cauſe it to be obſerved in his time? And had not Iuſtices of the Forreſt, and other Iuſtices, Sheriffs Majors, and other Miniſters of his time (had they received the Great *Charter* with the Kings Writs) power thereby, as well as he, to cauſe the ſaid *Charter* to be publiſhed to the People, and that the King had confirmed it in all points? Why did he (by neglecting his duty to ſend the ſaid *Charter* and Writs unto them accordingly) make them fail of their duties? Doth not the Lord *Coke* confeſs by this clauſe, *worthie*, (as he ſaith) *to be written in letters of gold, That Sheriffs, Majors, and other Miniſters, as well as Juſtices, and other Juſtices as well as thoſe at* Weſtminſter, *have, or ought to have the Law of* England *to be their guid, and ought to allow* Magna Charta *in all points, which in any* Plea *ſhall be before them?* Why

Why then do the Iuſtices at *weſtminſter* by their *Habeas corpus*, and other Writs, (as aforeſaid) diſturb, and prevent all Sheriffs, Majors, *&c.* to exerciſe their Offices, before Judgment, or after, without proof of Injuſtice, or manifeſt Errors committed by them in their Iudgements? Why do not the Iuſtices at *Wiſtminſter* (when they have Perſons, and Cauſes brought before them by virtue of their Writs) allow *Mag. Car.* to be Pleaded before themſelves, ſince they will ſuffer no others to hear it? How can it be true, (when they do not) that the Law is their guid? Do not they aſſume the ſole Guiding, Learning, Interpreting, Exerciſing, and Over-ruling of the Law to themſelves, when they ſuffer no other Iuſtices, or Miniſters of the King, but themſelves to have any Judgement therein, as aforeſaid? Why do they bely the Law ſo much, as to call it their *Guid*, their *Teacher*, their *Army*, their *Synagogue*, their *Fortreſs*; when it is manifeſt, That their Attorneys, their Sollicitors, their Catch-polls, and their Goalers, are their *Guids*, *Teachers*, *Supernumerous Armies*, and *Invinci-*

ble Fortreſſes, (as they truſt, but may be deceived) all whoſe ways are to Injuſtice as aforeſaid? How can that Law be called Common to all, which They, and theſe their Creatures, Monopolize, Ingroſs, and Appropriate all to themſelves as aforeſaid?

C. 2. *Judgements.* **And We will, That if any Judgement be given from henceforth, contrary to the points of the Charters aforeſaid, by the Juſtices, or by any other Our Miniſters, that hold Plea before them againſt the points of the Charters, it ſhall be undone, and holden for nought.**

L. *Coke upon Con. C. f.* 527. *Whatſoever Judgement is given againſt this Statute of* Magna Charta, *&c. is made void by this Act, and may be reverſed by a writ of Error, becauſe the Judgement is given againſt the Law; for this Act ſaith*, Soit de fait & pur nient tenus, viz. *as the Stat. Engliſheth it ſelf*, It ſhall be undone and holden for nought.

Expoſt and Quer. If ſo? Why ſhould not all Iudgements (appearing as aforeſaid, to be contrary to *Mag. Charta*) which are given for Arreſts, and Impriſonment of mens Bodies for Debt, be undone, and

and held for nought? Why did Mr. *Garland* lately trouble the moſt High Court of Parliament (whereof, by ſo doing, he ſhewed himſelf an unworthy Member) with a ridiculous uſeleſs Act of his drawing, for the Enlarging poor Priſoners for Debt? Why did not he, (if he did ever read this place of the Lord (.) mind the Parliament to command the Judges (who ſeem, if they have read it, to have forgot it) to reverſe their Erroneous judgements againſt Debtors, ſo far as they extend to their Impriſonment, and to ſend their *Liberate* to all their Goalers, to ſet open all their Goal dores, and let forth ſo many of the Priſoners for Debt, as they have left alive? The poor, becauſe they have no Eſtate whereof to pay; the rich, becauſe they have Eſtates ſufficient for all, or part; againſt which Eſtates, ſo much of their judgements may ſtand, as concerneth that, and not their Bodies: and Executions may be taken thereupon, by *Elegit*, or *Fieri facias*, according to the ſtatute of *weſtminſter* the 2. cap. 18th. agreeable to *Magna Charta*, and the Parliament not to be troubled, except to Im-

power the Iudges by an Order, to rectifie their judgements according to that Law which is in force, and so forgo their Errors, and Repealed Statute of the 25th of *Ed.* 3d c. 17th. which ought to be no Guid, Leader, or Teacher, to learned and grave Judges, that can never be misguided by the right Law, if (as the Lord *C.* saith) *they certainly know it, and be pleased truly to follow it.* And by this course, as well the Creditors of the rich Debtors, as the poor Prisoners for Debt, (that have been wronged by the Judges Erronious judgements, and proceedings against *Mag. Charta*) may be partly redressed, and so rest satisfied, until the Parliament be pleased to right them further (as shall appear hereafter they may.) So likewise may that Prisoner, (which is Imprisoned again after his inlargement by *Garlands* Act) be Enlarged again by the same Judge that Committed him, without troubling the Parliament, or People with any such Appeal, as is lately divulged; or suffering the *Apprentices Out-Cry* to run so far, That now it will never be stopped till the Thieves be taken.

And

And that all Arch Biſhops, and Biſhops, ſhall pronounce the Sentence of Excommunication againſt all thoſe that by word, deed, or counſel, do contrary to the ſaid Charters, or that in any point break, or undo them; And that the ſaid Curſe be twice a year Denounced, and Publiſhed by the Prelates aforeſaid: And if the ſame Prelates, or any of them, be remiſs in the Denunciation of the ſaid Sentences; the Arch-Biſhops of Canterbury, and York, for the time being, ſhall Compel, and Diſtrain them to the Execution of their Duties, in Form aforeſaid. Cap. 4. *Excom.* &c.

This Excommunication the Prelates could not pronounce without Warrant by Authoritie of Parliament, becauſe it concerned Temporal cauſes. L. C. upon Confir. Cart. f. 527.

Was not the Authority of this Parliament ſufficient Warrant for Prelates to pronounce Excommunication according to the Tenor, and limitation of this Act? Doth not the Lord *Coke* ſay before, *That this Act is not onely an Expreſs Confirmation of* Magna Charta, *but alſo, a confirmation of it in Law?* Doth he not ſay before that; *That* Magna Charta *ſhould live for ever, and in all Succeſſions of Ages for evermore?* Is not the ſubſtance Expoſt and Quer.

ſtance of the Excommunication given by this Act to the Prelates to pronounce? Had the Prelates any more to do therein, but to pronounce an Excommunication? What meaneth *Ipſo Facto* in the Act, but to let all future Ages underſtand, That the breach of *Mag. Char.* which is a Declaration of the Fundamental Laws of *England*, is ſuch an Offence as deſerveth an everlaſting Curſe inflicted by the Law it ſelf upon the Breakers for ever? Which Curſe receiveth no more ſtrength from the Pronouncer, than a Sentence of Death from a Iudge, who doth but tell a Fellon whom the Law condemneth, what ſhall be the manner of his Death. If any Excommunication was ever pronounced by virtue of this Act (as there were two in two ſeveral Kings Reigns) were not thoſe Excommunications in force, and ſo to continue as long as *Magna Charta* it ſelf? the Prelates, and their Succeſſours neglect of their Duties, by diſcontinuing ſuch Denunciations twice yearly, afterwards notwithſtanding? If ſo? Are not thoſe Excommunications ſtill in force, except Abſolutions be produced,

ed, granted, and given by equal Authority to that whereby thoſe Excommunications were Denoun-ed? If ſo? Are not Excommunica-ions, until Abſolutions, of the ame accompt, and validity in Law, s Out-lawries, until they be rever-ed? If ſo? Are not all the Lands, Goods, and Chattels of all Excom-municats, now the States, as formerly hey were the Kings, and ſo Seiza-ble, Sequeſtrable, and Convertible o that uſe, until Abſolution? And ought not ſatisfaction precede Abſo-lution? Ought not that ſatisfaction extend to every particular man that hath been wrong'd in this caſe, which (as the L. *C.* ſaith) *is a Temporal caſe*, and ſo called, in reſpect of the inte-reſt of all men, called by the Clergy, *Temporal*, for diſtinction from them-ſelves, that would be called *Spiritu-al*? And ſo (as I believe) not to be commuted by a *Prelatical Sentence*, to a trivial Pennance; nor pardoned by Parliament, without excepting every particular Intereſt. And what Parliament can Pardon, or Abſolve Offendours againſt *Magna Charta*, but by the Rules of *Magna Charta*, without offending *Magna Charta* them-

themſelves, and incurring the ſame Excommunication, as they have incurred that would be Abſolved? If Excommunications be no Terrors to *Atheiſtical* Judges, Juſtices, &c. who neither Believe, nor fear, Heaven, Hell, God, Juſtice, nor Laws, (though they cannot in nature and reaſon, but know that ſuch there are, and are to be beleived, feared, and obeyed) ſhall not Excommunications be ſufficient Warrants for Chriſtians, Engliſh Chriſtians in *England*, (being warranted not onely, as the L. *C.* ſaith, *By Authority of Parliament*, but of many Parliaments, ſuch Parliaments of ſuch Infallibility as were thoſe wherein *Magna Charta*, and all its Confirmations were made, and grounded upon the Common-Laws of *England*, which, as all Lawyers profeſs, were grounded upon the Law of God, the Word of God, the God of Chriſtians, Chriſt Jeſus, the God of Truth, even Truth it ſelf,) to put them in Execution? If not? To what ends are Parliaments, or the Laws of God, and man, to ſuch as dare not, or will not, if, and when they may? Doth not the Statute of *An°.* 1°. *P. & M.* cap. 12°. which made

made it Fellony for twelve Engliſh perſons, or above, to aſſemble together of purpoſe to break any point of the Laws of *England*, imply it to be Warrantable for all the People of *England* to Aſſemble together, to cauſe the Laws of *England*, made by all their conſents, to be obſerved, and to puniſh not onely the Breakers, but alſo the onely begetters, and cauſers of all the Breakers, and Breaches of all the Laws of *England*, the onely aſſumers of the knowledg thereof, and concealers of that knowledge from the People; ſo that none but themſelves, can knowingly break the Laws, becauſe they will not let them know them? Laſtly, If Excommunications be nothing formidable to Lawyers, to make them care whether they incur, or ſhun them, but as their profit guids them? Let us ſee what the L. *Coke* ſaith, fol. 536. concerning the conclusion of this Act, and the Seals that were put to it, and the Oaths of the King and Parliament, then and for ever, for the Ratification of it, omitted in the Stat. at large, in Print, but to be ſeen in the Tower, *Rot. Parl.* 7°. *Hen.* 4th. *n*°. 60. beginning

ing with the word *Simile*, &c. *Note* (saith he) *the Solemnitie of this Act, in that all the Arch-Bishops, Bishops, Earls, Barons,* &c. *did put their Seals thereunto.* A rare example, which was done for the obliging of them the more firmly to the observation of this Act, which concerned the Laws, Liberties, and Free-Customs of their Countrey; and for their greater Obligation for the due Observation of this Act, they took a voluntary Corporal Oath.

Expost & Q. And let us note, that if the Judgement of God, and this Parliament, hath made the Prelates sensible of their slighting of their Predecessors Excommunications, seals and oaths? by what justice, or excuses, shall Lawyers avoid the same Judgement? And though the Ignorance of *Mag. Charta*, and the Law (which Lawyers have begotten & caused by concealing the same from them as aforesaid) can be no safe Plea for any with God, or man, without prayers for Remission, and manifestation of Repentance; yet is Ignorance a better subject for mercy, than knowing wilfulness; and the people, while ignorant of *Mag. Charta*, are more capable

of grace for the breaking of it, than when they know it, if they put not the Iudgements of it in Execution, against the causers of their offence.

Now I shall let you see, that there were two *Excommunications* denounced against the breakers of *Mag. Charta*, according to this Statute, as followeth.

The Yeare of our Lord One thousand two hundred sixtie three, the third of May, in the great Hall of the King at Westminster, in the presence, and by the assent of the Lord Henry by the Grace of God, King of England; and the Lord Richard Earl of Cornwall his brother; Roger Bigot Earl of Norfolk and Suffolk, Marshal of England; Humphrey Earl of Herford; Henry Earl of Oxford; John Earl Warren, and other estates of the realm of England: We Boniface, by the mercie of God, Arch-bishop of Canterbury, Primate of all England; T. of London, H. of Ely, S. of Worcester, E. of Lincoln, W. of Norwich, P. of Herford, W. of Salisbury, W. of Durham, R. of Excester, M. of Carlile, W. of Bath, E. of Rochester, T. of S. Davids, Bishops, apparrelled in Pontificals, with tapers burning against the breakers of the Churches Liberties, and of the Liberties, or other Customs of the realm of England, and namely of those which are contained in Excomunic. prim.

in the Charter of the Common Liberties of England, & Charter of the Forrest; have denounced the sentence of Excommunication in this Form: By the Authoritie of Almightie God, the Father, the Son, and the holy Ghost, and of the glorious Mother of God, and perpetual Virgin Mary; of the blessed Apostles Peter and Paul; and of all Apostles, and of all Martyrs; of blessed Edward King of England; and of all the Saints of heaven; We Excommunicate, accurse, and from the benefits of our holy Mother the Church, we sequester all those that hereafter willingly, and maliciously deprive, or spoil the Church of her Right; and all those that by any craft, or witinesse do violate, break, diminish, or change the Churches liberties, and Free-customs contained in the Charters of the Common liberties, and of the Forrest, granted by our Lord the King to Arch bishops Bishops, and other Prelates of England: And likewise to the Earls, Barons, Knights, and other Freeholders of the Realm; and all that secretly or openly, by deed, word, or counsel, do make Statutes, or observe them being made, or that bring in Customs, or keep them being brought in, against the said liberties, or any of them, the Writers, Lawmakers, Counsellors, and the Executors of them, and all those that shall presume to Judge against them. All and every which Persons before mentioned, that willingly shall

all commit any thing of the Pre-
ises, let them well know ; That
ey incur the foresaid sentence Ip-
facto, first upon the deed done. And
ose that commit ought ignorantly
d be admonished, except they Re-
um themselves within 15. daies af-
r the time of the Admonition; and
ake full satisfaction for that they
ave done, at the will of the Ordi-
ary, shall be from that time forth,
rapped in the same sentence. And
ith the same sentence, we burthen
l those that presume to perturb the
eace of our Sovereign Lord the
ing, and of the Realm. To the
rpetual memory of which thing,
le the aforesaid Prelates have
ut Our Seals to these Presents.

What though the Form of this *Ex-*
ommunication be Popish? Is not the
ubstance the maintenance of *Eng-*
nds Liberties? And is not that all
hich the meaning of this Law re-
uireth? If Judges and Prelates, as
ell since King *Hen.* 8. as before,
ave neglected their Duties in Itte-
ring the charge of their Functions,
he first, in pronouncing Sentence,
nd the other in Executing it; doth
ot once Pronouncing, & once exe-
uting of such one Sentence of Law,
s concerneth all Ages, Sexes, and
Con-

Expoſt and Quer.

Conditions of People to learn and remember, no leſs for the Preſervation of their lives, and livelihoods, than Scriptures for their Salvation, take away the plea of Ignorance from all men? Shall any man commit that ſin which he knoweth to be once ſo Declared by the Law, and think to avoid puniſhment becauſe not often ſo Declared by Law-Profeſſours? Are not all men bound to ſearch the Scriptures, and learn the Laws at their perils therefore? If Ignorance were a plea, ſhall knowledge be excuſed? Profeſſors of knowledg? nay, ſuch as ingroſs that Profeſſion from all others, nay more, ſuch as are the onely cauſers and puniſhers of all other mens Ignorance?

It appeareth that this Sentence was Denounced in the time of King *Hen.* 3^d^. Now followeth another, Denounced upon the ſaid Confirmation made in the 25th. year of King *Ed.* 1°. *viz.*

Excom. 2. **In the Name of the Father, the Son, and the Holy Ghoſt, Amen. Whereas our Sovereign Lord the King, to the Honour of God, and Holy Church, and for the common profit**

ofit of the Realm, hath granted for
n and his heirs for ever, these
rticles above written. Robert Arch-
ishop of Canterbury, Primate of all
gland, Admonished all his Pro-
nce, Once, Twice, and Thrice.
ecause that shortness will not suffer
much delay, as to give knowledge
all the People of England of these
esents in Writing: We there-
re injoyn all persons of what E-
tes soever they be, that they, and
ery of them, as much as in them
, shall uphold and maintain these
rticles, granted by our Sovereign
rd the King, in all points; And
those that in any point do resist,
break, or in any manner hereaf-
r procure, counsel, or any wise as-
nt to resist, or break those Ordi-
nces, or go about it by word, or
ed; openly, or privily, by any
nner of pretence, or colour: We
e foresaid Arch-Bishop by our Au-
rity in this Writing expressed, do
communicate, and accurse, and from
e Lord Jesu Christ, and from all
e company of Heaven, and from
the Sacraments of Holy Church,
sequester, and exclude.

Doth not the word, *Hereafter*, ex- Exposit & Q.
nd to all successions, and implie a
uration, as long as there be a *Mag.*
rta, and a breaker of it? Do not
rliamentarie Oaths, as well as their
ws, include absents, and futures,

as

as well as preſent? If neither Oaths nor Excommunicarions be obligatorie to Atheiſts, ſhall not their hands and ſeals, bind them and their Heirs and Executors after them, as common Bonds ſigned and ſealed between private parties, commonly do? And more ſpecially, ſuch as take upon them the ſole Execution, and Adminiſtration of the Laws, Liberties, and Freehold of *England?* Shall not *Charters* of Parliament, made, ſigned, ſealed, and confirmed by Authoritie of Parliaments, bind all Subjects, their Heirs, Executors, and Adminiſtrators, as well, and as far, as private *Charters* of Feofments ſhall bind their Contractors, and their Heirs, *&c.* Nay, as far as Acts of Parliament can bind, till repealed? Is not every Court called *Curia*, of the Care it ought to have to execute that charge it undertaketh? and not to exact, and raiſe Fees, *&c.* for diſcharging themſelves of all their ſaid Obligations to do even Juſtice to all men, and to force men to pay thoſe exactions, even for doing injuſtice? If all before written be not ſufficient to diſcover that to be true, and that therefore the Lives,

Lands

ands,& Goods,poſſeſſed by Judges, Lawyers, all, or moſt of them, are in the States power to ſeize into their hands, to the uſe of the Common-wealth, as aforeſaid; let us look a little further, and we ſhall find more that may. And firſt, the Statute called *Articuli ſuper Chartas*, viz. Articles upon the great Charters, made 8. of *Ed.* 1. *viz.* the ſame year as the Confirmation at large (which conſiſteth of 38. chapters of *Magna Charta*) was made; proveth further, as followeth.

Stat. of Artic. on the great *Chart. A.* 28. *Ed.* 1.

*Fo*r as much as the Articles of the great Charter of the Liberties of England, and of the Charter of the Foreſt, the which King Henry, Father to our ſovereing Lord the King, granted to his People for the weal of his Realm, have not been heretofore obſerved, ne kept, and all becauſe there was no puniſhment executed upon them which offended againſt the points of the Charters before mentioned: Our Sovereign Lord the King hath again granted, revived, and confirmed them at the requeſts of his Prelates, Earls, & Barons aſſembled in his Parliament holden at Weſtminſter in the 28 year of his reign. And hath ordained, enacted, and eſtabliſhed certain Articles againſt all them that offend contrary to the points of the ſaid Charters, or any

Preamble.

any part of them, or that in any wise transgress them, in the form that ensueth, viz.

First of all, That from henceforth the great Charter of the Liberties of England, granted to all the Commonaltie of the Realm, and the Charter of Forrest in like manner granted, shall be observed, kept, & maintained in every point, in as ample wise, as the King hath granted, renued, and confirmed them by this Chart. And that the Charter be delivered to every Sheriff of England under the Kings Seal, to be read four times in the year before the people in the full County, that is to wit, the next County day after the Feast of S. Michael, and the next County day after the Feast of the Circumcision, and after Easter, and after the Feast of S. John Baptist. And for these two Charters to be firmly observed in every point, and Article (where before no remedy was at the Common Law) there shall be chosen in every Shire Court by the Commonaltie of the same shire, three substantial men, Knights, or other lawfull, wise, and well disposed Persons to be Justices, which shall be assigned by the Kings Letters Patents under the great Seal, to hear, and determine (without any other Writ but onely their Commission) such plaints as shall be made upon all those that commit, or offend against any point contained in the aforesaid Charters, in the Shires where they be assigned, as well with-

Justices of *Oyer & Term.*

in Franchiſes, as without, and as well for the Kings ſervants out of their places, as for other. And to hear the plaints from day to day without any delay, and to determine them without allowing the delays which be at the Common Law: And the ſame Knights ſhall have power to puniſh all ſuch as ſhal be attainted of any Treſpaſs done contrary to any point of the two ſaid Charters (where no remedy was before at the Common Law, as before is ſaid) by Impriſonment, or by Fine, or by Amerciament, according to the Treſpaſs. Nevertheleſs the King, nor none of his Councel that made this Ordinance, intend that by virtue hereof, any of the foreſaid Knights ſhall hold any manner of Plea by power, for to admit any ſuit in ſuch caſes wherein there hath been remedy provided in times paſſed, after the courſe of the Common Law by writ. Nor alſo that the Common Law ſhould be prejudiced, nor the Ch. aforeſaid, in any point. And the K. willeth, that if all three be not preſent, or cannot at all times attend to do their Office in form aforeſaid, the King commandeth that two of them ſhall do it. And it is Ordained that the Kings Sheriffs, and Bailiffs ſhall be attendant to do the commandments of the foreſaid Juſtices, as far forth as appertaineth unto their Offices. And beſides theſe things granted upon the Articles of the Charters aforeſaid. The King of his ſpecial Grace for redreſs

of the grievances that the people hath sustained by reason of his Wars, and for the amendment of their Estate, & to the intent that they may be the more ready to do him service, and the more willing to assist, and aid him in time of need; hath granted certain Articles, the which he supposeth shall not onely be observed of his leige-people, but also shall be as much profitable, or more, than of the Articles heretofore granted.

L. Coke f. 537, 538, 539. *One of the causes for the making this Act, was* (saith the Lord *Coke*, as in the Preamble is suggested) *that there was no certain punishment in many points established by the said* Charters *against the violators of the same; which also by this Act* (saith he) *is remedied: And the word*, People, *here* (saith he) *doth include all the Kings Subjects*, &c. *And again, the word*, Pain ne fuit estable, *some read* (saith he) Pain ne fuit execute, *and that is true in effect; but the Original, is*, Pain ne fuit estable; *that is, no pain was set down certain: And* (saith he, fol. 529.) *This Act had but the force of a* Charter, *until confirmed by this Parliament, the* 34th Ed. 1. *And that these* Charters *should be read four times in the year, in full County, here is an*

an order taken for the publishing. And Ou remedie ne suit avant, *&c. is to be construed* (saith he) *where no Action was given by the Kings Writ, to be pursued at Common Law*, &c. *Again, here* (saith he) *for the better Execution of those glorious two Lights*, Magna Charta, *and* Charta Foreſtæ, *a new Court, and new Justices were appointed*, &c. *Again* (saith he) *these clauses against the* Kings *Servants out of their places, as well as others: And to hear the Plaints without delay, day by day, and to determine them without admitting such delaies as be at Common Law, was the first ground of the raising of the Justices called*, Trail Baston, *and their Courts so called, in respect of their precipitate proceedings from day to day, without such convenient leisure and time, as Common Law allowed*, &c. *they in the end had such Authoritie, as Justices in Eyer; but albeit they had their Authoritie by Act of Parliament, yet if they erred in judgement, a Writ of Error did lie by the general Rule of the Common Law, to reverse the Judgement in the* Kings-Bench; *which being once resolved, and known, and their Jurisdiction fettered with so many limitations, their Authoritie, by little and little vanished.*

Expoſt and Quer. Was there any certain Pain eſtabliſhed by this Statute, againſt the violators of *Magna Charta*, other than by Commiſſion in Eyer, that the Juſtices might determine, and puniſh the Offendors by Impriſonments, Fines or Amerciaments, according to the Treſpaſs? Ought not the Juſtices of the *Kings-Bench* to have ſo puniſhed all ſuch as were Indicted before Sheriffs, or Juſtices in Eyer, who had power to inquire, and certifie them of all ſuch Offendors, and Offences againſt *Magna Charta*, by the Statute of *Marlebridge*? 51. *Hen.* 3^d? Doth not the Lord *Coke* ſay elſewhere, *That all Statutes ought to be conſtrued ſo, as that there ſhould be no failer of Juſtice:* ſhould not the Juſtices of the *Kings-Bench* have conſtrued *Magna Charta* ſo? Doth not the 14th chap. of *Mag. Charta* expreſly direct; *That all offendors ought to be Amercied by their equals, according to the quantitie of the Treſpaſs*? Doth the Lord *Coke* ſpeak truth, when he ſaith, *this Statute gave any man Remedie for the certaintie of the puniſhment, other than* Magna Charta *did before*? Was it not made more uncertain by referring it to the Juſtices

ces in Eyers diſcretion, whether Amerciaments, Fyne, or Impriſonment? Doth he not confeſs plainly, (when he ſaith, *It is true in effect, that the Pain was not Executed, as ſome read, inſtead of the Pain was not Eſtabliſhed,*) That it was the fault of the Juſtices of the *Kings-Bench*, in not Executing the Pain of Amercying, *&c.* (as they might, and ought to have done) was the cauſe of Impowering the Juſtices in Eyer, (who were but Enquirers before) now to determine, and puniſh ſuch Offendors, and Offences, as they did forbear, *viz.* The Kings Servants, with whom by this time, they of the *Kings-Bench* tampered for their Offices? And was it not for the ſame cauſe, the people were Declared to be chooſers of Juſtices in Eyer? And doth not the Lord *Coke* ſhew a great ſpight between himſelf, and his brethren; whom he would have to be ancient; and the Juſtices in Eyer, whom he calleth a new Court, and new Juſtices? And ſhew his Memory to be weak, as his Envy was ſtrong, when he is forced to give himſelf the Lye, (either here, or in his Expoſition of the Stat. of *Marlebridge*

bridge, where he ſaith; *They were then Juſtices, and a Court, though but for Inquirie? And upon the* 23th *Chap. of* Magna Charta; he ſaith, they uſed before that time to give charge to all Juries concerning Wears *&c.* Doth not the Lord *Coke* ſay, fol. 235. *That* Bracton *wrote before the making* Weſt. 1. *which was* 3. Ed. 1? And doth not *Bracton* lib. 3. cap. 11, 12, and 13. ſay, *Juſtices in Eyer were before his time*? Doth not *Camden* in his *Britannia*, pag. 104. ſay, *They were Inſtituted by King* Hen. 2? Doth not *Hoveden* in his *Annals*, *part. poſter.* fol. 113. b. confirm the ſame? And add that K. *Hen.* 2. divided the Realm in ſix parts, & ſetled three Juſtices in Eyer to every part, whoſe names he relateth? And doth not the *Mirror of Juſtice* lib. 3°. Tit. 1°. *Juſtice in Eyer, declare their power at large*? And as for their Election by the people, doth he not ſay, fol. 538. *That* Magna charta, *&c. containeth the ſubſtance of all that is contained in theſe Articles*? And doth he not ſay in his Preamble, *That* Magna Charta *is an Act declarative of the ancient Laws, and Cuſtoms of* England *before it, and no introductive of any new*?

And

And fol. 558. *That of ancient time, before the making of this Act, all ſuch Officers, or Miniſters, as were inſtituted, either for Preſervation of the Peace of the County, or for execution of Juſtice (becauſe it concerned all the Subjects of that County, and they had a great intereſt in the due and juſt exerciſe of their places) were by force of the Kings writs in every ſeveral County, choſen in full and open County, by the Free-holders of the ſame County?* Again, (ſaith he,) *So it was then, and yet is, of Coroners, and ſo it was then, and yet is, of Knights of the Shire for Parliaments; and of the Verdors of a Foreſt, and likewiſe it was of ancient time of the Sheriff of the County, and reſtored by this Act:* but this is altered by divers Acts of Parliament. Now were not Juſtices in Eyer therefore that were before *Magna Charta* choſen by the peole, as they were Miniſters of Juſtice, wherein the people were concerned? And were they by this Act but reſtored to their ancient juriſdiction, as (the Lord *Coke* ſaith) Sheriffs were? Was not that alteration which was made by divers Acts of Parliament, made by ſuch Acts as were contrary to

Magna Charta? And are not, or ought not all such Acts to be void, (as the L. *Coke* hath elsewhere said?) Doth not these contradictions declare the Lord *Coke* to have been distracted with spight and envy against Justices in Eyer? And where in this leaf, he would perswade the people to suspect Justices in Eyer, of corruption, and Monopolizing justice to wrong the people that chuse them; can the people believe that these Justices (who are to be chosen by them, and to be displaced by them, when, and as often as they see cause) will, or can wrong them more, than those chosen by the King and his Servants, without their consents, unless they can believe that they may be perswaded to give their consents to wrong themselves? Is it not a Bull of less formality than ever any Popish Bull was, (keeping a man off with his Horns, That he shall have no hold of his tail) when he saith, *That the clause, where no remedy was before*, &c. *ought to be expounded, where no Action was given by the Kings writs, to be pursued at Common Law?* Since by the Statute of *Marlebridge*, Justices in Eyer were to inquire

inquire by the Kings Writs; and now are, by expreſs words of this chapter, not onely to iuquire, but alſo to determine by virtue of their Commiſſions, without the Kings Writs? And what cauſe could they, or can any other Court determine by virtue of their Commiſſion, without the Kings Writs, but is Actionable by the Kings Writs? What doth this Statute give by virtue of this Commiſſion, if all things Actionable by Writs, be not determinable by theſe Commiſſions, without Writs? And what doth this Statute avail, if not conſtructable as others, ſo that there ſhould be no failer of juſtice? Where was the failer of juſtice, but in the Kings Courts, and Iudges, in not executing juſtice upon the Offendors of *Magna Charta?* Doth it not therefore appear that the ſaid clauſe (*where no Remedy was before*) ought to be expounded, where no remedy was given before by Iuſtices in *Weſtminſter* againſt the Kings Servants, and themſelves, that were the greateſt contractors in the breaches of *Magna Charta*? Were not the Iuſtices in Eyer therefore inabled with a power to ſupply their de-

faults, and to do right to the People, againſt the King himſelf, and all his Servants at *Weſtminſter*, that wilfully failed in their juſtice aud power? And where he ſaith; *The Juſtices called*, Trail Baſton, *had like authoritie as Juſtices in Eyr, and committed Errors, & upon pretence thereof, had all their proceedings tranſported to the* Kings-Bench; doth it not appear by the Statute called, *Ragman*, that thoſe Iuſtices were made by the King, without the conſent of the People, and ſent abroad (perhaps of purpoſe) to err and abuſe the people, to give colour to the *Kings-Bench*, to ſend their Writs of Error, for the proceedings of the Iuſtices in Eyer (upon pretence of like Errors) ſo to ſuppreſs all Iuſtice againſt themſelves, and their Creatures? Doth not the Lord *Coke* herewithal prefer the chargeable delaies of cauſes (ſpun out by Termes, and Years,) before ſpeedy juſtice done day by day, at mens own doors, which he calleth, *Precipitat?* Doth he not ground this courſe, for ſuppreſſing ſpeedy juſtice by Writs of Errors, upon the reſolution of the Iudges at *Weſtminſter*, which he al

leadgeth

leadgeth as ſufficient to maiſter Authority given by Act of Parliament? And is it not the reſolution of all Lawyers, that no power but Parliament, is equal to Parliament, and no Parliament to be ſo impowred as to croſs *Magna Charta*, and its Confirmations? Doth he not further (fol. 559.) alleadge the reſolution of all the Iudges of *England*, againſt the King and his Councel, for an Erroneous Act, when they had choſen a Sheriff for *Lincoln* in a caſe of neceſſity, without the conſent of the People? But to haſten this Treatiſe to an end, I ſhall end this Statute for this time, with few chapters following, *viz.*

The King hath granted unto his people, that they ſhall have Election of their Sheriff in every Shire (where the Sheriffalty is not of the Fee) if they liſt. Cap. 8. Elect. of Sheriffs.

I ſhall ſay no more to this, than hath been ſaid before.

In ſummons and Attachements in Plea of Land, the Writs from henceforth ſhall contain 15. days full at the leaſt, after the Common Law, if it be not in Attachement of Aſsizes taken C. 15. Summons & Attach.

taken in the Kings preſence, or of Pleas before Juſtices in Eyer, during the Eyer.

Expoſt and Quer. Upon this I muſt ask, Is not a Writ of Debt, Summons? Should not that be given to the party which ought to be ſummoned? Should not an Attachement follow by diſtinction of 15. days, as this Statute preſcribeth? Shall the repealed Statute of the 25th of *Ed.* the 3d, ſerve Lawyers turns to make a diſtinction between a Plea real, and Perſonal? And ſhall that Writ of Summons be counterfeited, either in it ſelf, or in its return, as aforeſaid.

Ca. 16. Falſe Retur. of Wr. Such Executions ſhall be done of them that make falſe Returns of Writs, (whereby right is deferred) as it is ordained in the 2. Statute of Weſtminſter, with like pain, at the Kings commandment.

L.C. upon Ca. 16. £. 568. *This is an Act of confirmation, whereby the Statute of* Weſtminſter *the* 2d. cap. 39th. *touching falſe returns, is confirmed.*

Expoſt & Q. Doth not the 2d Statute of *weſtminſter* cap. 39. ſay, *That the King hath commanded that Sheriffs ſhall be puniſhed*

...niſhed by the Juſtices once or twice if need be for ſuch falſe Returns? and if they offend a third time, none ſhall have to do therewith but the King, &c? Doth not the Court of *Kings-Bench* aſſume the King to be always there in Perſon? And what they ſpeak, to be his own ſpeech? Is it not they therefore that ſhould puniſh Sheriffs for their falſe Returns, the third time of their offence? But is it not indeed they, and their Creatures, as well as thoſe of the *Common-Pleas*, do make falſe Returns in the names of the Sheriffs of *London*, and *Middleſex*, and do conſequently make thoſe Sheriffs liable to Actions, as aforeſaid? How can they puniſh thoſe Sheriffs for thoſe falſe Returns, which they themſelves ſuffer their Clerks to make, unknown to the Sheriffs, as aforeſaid? And who but they cauſe, or ſuffer all Sheriffs falſly to Return Exigents with the words, *Per judicium Coronatorum*, and the Coroners names, who know no ſuch thing? And if any man be Out-lawed without the judgement of the Coroners of his County, or any mention made thereof in the Sheriffs Return, is not that Outlawry as injurious to the

the Party, Perjurious in the Judges who admit such a Return, and proceed upon it, and as Illegal in the Sheriff that makes such a Return, and as different from due Proces of Law, as the other? And do not those false Returns filed upon their Records, make all their proceedings thereupon, false, and faint Actions as aforesaid? And if all before written be not sufficient to make it appear to the world, that they are not onely Forgers, Perjurers, and Anathema's themselves, but also the onely causers of all others to be, or be accompted the like? And that their Lives, Lands, and Goods, are in the immediate dispose of the present State, by the judgements and confessions of their own mouths? Behold their Oath, which they voluntarily take when they assume their places, whereby they binde themselves further, before God, and man, as followeth, *viz.*

The Oath of the Kings Judges

Ye shall Swear, that well and lawfully ye shall serve our Soveraign Lord the King, and his people, in the office of Justice, and that lawfully ye shall Counsel the King in his business, and that ye shall not counsel,

councel, nor assent to any thing which may turn him to dammage, or disherison, by any manner way, or colour. And that Ye shall not know the dammage, or disherison of him, whereof Ye shall not do him to be warned by Your self, or by other. And that Ye shall do even Law, and Execution of right to all his Subjects, rich, and poor, without having regard to any person. And that You take not by Your self, or by other, privily, nor apertly, gift, nor reward of gold, nor silver, nor of any other thing which may turn to Your profit unless it be meat, or drink, and of small valure, of any man that shall have any Plea, or Proces, hanging before You, as long as the Proces shall be so hanging, nor after the same cause. And that Ye take no Fee, as long as Ye shall be Justice, nor Robes of any man, great or small, but of the King himself. And that Ye give none advise, nor Counsel to no man, great nor small, in no case where the King is party. And in case that any of what Estate or Condition they be, come before You in Your Sessions with Force, and Arms, or otherways against the Peace, or against the form of the Statute thereof made, to disturb Execution of the Common Law, or to manace the people that they may not pursue the Law, that Ye do their Bodies to be Arrested, and put in prison: and in case they be such, that Ye may not Arrest them, that

Ye

Ye certifie the King of their names, and of their Wilfulsion haſtily, ſo that he may thereof ordain a covenable remedie: And that You by Your ſelfe, nor by other, privily, nor apertly, maintain any Plea, or quarrel, hanging in the Kings Court, or elſe-where in the Countrie: And that Ye denie to no man common right by the Kings Letters, nor none other mans, nor for none other cauſe; and in caſe any Letters come to You, contrarie to the Law, that You do nothing by ſuch lett, but certifie the King thereof, and go forth to do the Law, notwithſtanding the ſame Letters. And that Ye ſhall do, and procure the profit of the King, and of his Crown, with all things where Ye may reaſonably do the ſame. And in caſe Ye be from henceforth found in default in any of the points aforeſaid; Ye ſhall be at the Kings Will, of Body, Lands, & Goods, thereof to be done as ſhall pleaſe him: As God You help, and all Saints. Anno, 18. *Edward*, 3. Stat. 3.

Expoſt and Quer. If Atheiſts can perſwade Chriſtians that this Oath was no binding for them that had taken it, (even the Wiſe, Learned, Reverend, Judges, Sages, Scientiſſimous Interpreters of the Laws of *England*,) ſufficient to keep them within the compaſs of their Oath, Law, and Know-

nowledges? Shall not Chriſtians erſwade themſelves, that it is a ſuffi-ent Confeſſion, Declaration, and dgement of their own mouths that ade it, that their forfeitures, *viz.* eir Lives, Lands, and Goods, in ſe of their breach of any point of is Oath, are now immediately in e power of the State to diſpoſe of the publique uſe, at their plea-res, without any further Proces, or roceedings in Law, but onely to ve Order, and Warrant to Arreſt e perſons of ſuch Offendors to and to their cenſures; and to Se-ueſter their Eſtates, and to divide hem to the ſaid uſe, accordingly? id Lords ever uſe any more Law han their own Wills, when they Se-ueſtred, and puniſhed their villains? ad Lords any more Law, Right, or eaſon, to Sequeſter, and puniſh heir villains at their own Wills, but or that their villains did take their ands upon conditions to do thoſe rvices which they and their Lords greed upon, and gave their Lords heir Oaths (as their greateſt bonds) o perform thoſe conditions, or in ſe of breach, to ſuffer their Lords o repoſſeſs their Lands, with the for-

forfeitures of their Goods, (which they gained) and their Lives (which they ſuſtained) upon the ſame? Was the Oath of a Villain (though made by Parliament, to the end that Lords ſhould be well ſerved by their Slaves in their private and meaneſt Offices) of as conſiderable conſequence to be obſerved, or in default thereof, their forfeitures to be executed, as the Oath of Judges, made and Confirmed by ſeveral Parliaments, to the end, that the common-wealth ſhould be well ſerved by their Juſtices in their publike, and moſt honourable (if rightly ſerved) Offices of Judicature, and adminiſtration of Juſtice? Are not ſuch Villains, as dare incroach, not onely upon their Lords Lands, and Eſtates, but alſo upon their Lives, and Liberties, dangerous, tranſcendent, Hyper-Prelatical Uſurpers? Are not ſuch Uſurpers intollerable miſchiefs in a Common-wealth? Who being ſworn ſervants to the Common-wealth (as by this Oath it appeareth the Kings Juſtices were) make all the Common-wealth their ſervants, to attend their Trains at *Weſtminſter* at their pleaſures? And all

ll Priſoners for Debt, not onely heir own Villains, but alſo Villains o their Villainous Goalors, and laves to their Slaves? Are not the neaneſt of the Free-People of *Eng-nd*, intereſſed in the due executi-on of Juſtice, to which theſe Judges vere ſworn? (as well to them, as to Kings) and conſequently ought they ot to be ſuch Lords as dare, and vill take the forfeitures of ſuch Vil-ains, as do them daily Injuſtice? s not this Oath a ſufficient Evidence n it ſelf, that the takers of it, have, & lo dayly break it? & cauſe all others hat have, or do break it, to do ſo ikewiſe? Since Kings and People ave wholly referred themſelves, and heir Eſtates, not onely to the Ju-tice of their Judges, but alſo to their atherly advertiſements, and admo-itions (whereby they ought not to uffer any that depend upon them, o err through ignorance) and they (contrariwiſe) admoniſh none not o offend, but ſuffer, and cauſe more o offend than willingly, and wit-ingly would; and ſo do, for want of ſuch admonitions, much more ncreaſe, and enhance the Markets f their Juſtice, by ſuffering no o-

ther

ther Judges to admoniſh, or Juſtifie any offendors at home, and ingroſsing all to themſelves at *Weſtminſter*, or before ſuch as they ſend to fripper for them, in Aſſizes, Goal-Deliveries, and *Niſi priuſ's*. Have not ſome preſent Grafts of the old ſtock Judges of Aſſizes in poſſibility for the *Country)* & their Agents in *Chancery*, procured ſeveral late Injunctions to be diſſolved in *Chancery*, without the privity of both parties whom they concerned, to the end onely to beget work for them in the Aſſizes, leſt they ſhould want better? Did our late Judges lawfully counſel King *Charls* in his buſines, when they gave their Reſolutions for him concerning the Ship-money? Did they not aſſent to a thing, or things, that turned to his dammage and diſheriſon, and overturned him, and his Poſterity out of three Kingdoms, and his life to boot, when they aſſented to Ship money, and Monopolies? Did not the Kings Councel and other Serjeants, and Lawyers, draw (if not plot) all ſuch Patents? Got they not more by their Fees, for their adviſe therein, (which were preſent pay) than the King did by his reſervations for intereſt in

thoſe

hoſe Grants which are yet in Ar-
ear? Was any thing reſerved to
he King thereby, but what his
Councel learned thought fit, and ad-
iſed him to take, and the Patentees
o give? Did not thoſe Judges, that
ad the keeping of both the Kings
eals, aſſent to all thoſe unlawfull
hings, whatſoever they Sealed?
Briefly, doth not this Oath in every
oint evidence the Judges at *weſt-*
minſter, and their brethren to have
een the chief betrayers of Kings
nd People in their chief truſt,
o guide and hold both in the right
way, and did they not lead both
wrong? And thereby are the chief
Authors of all the blood ſpilt, and e-
tates ruined in theſe three King-
loms, in and by theſe late Wars,
which were undertaken for Refor-
nation, onely of ſuch deformities
n Law, and Government, which
you ſee) they had power to keep in
orm by their lawfull judgements,
r admonitions to the right, or not
conſenting to the wrong? Do not
our Records, and Hiſtory teſtifie,
hat all the Civil Wars of *England*,
were alwaies undertaken for Refor-
nation of Injuſtice, evil Govern-
ment,

ment, and corrupt Lawyers that were alwaies the causers thereof, by breaking, and causing to be broken the Liberties of *Magna Charta*, which the People sought alwaies to recover? Were not *Hugh D'Burgo*, Chief Justice of *England*, *Walter D'Lancton*, Lord Treasurer of *England*, *Brember*, *Tristilian*, *Bellknap*, *Thorp*, &c. examples of their times in that case? If so few examples will not serve to make all Judges mend, should not all such Judges be made examples, to serve posterity to see that such evils are not necessary for Common-wealths? Shall such Extrajudical Judges, such lawless Lawyers, *&c.* as will not be tied by Oaths, made in, and by Parliaments; Excommunications denounced by Authority of Parliaments; *Charters* Signed, Sealed, and Confirmed in, and by Parliaments; nor by Acts, Laws, and Statutes made by full and free Parliaments; be suffered to sit with Christians in Parliaments to make Laws, Votes, Oaths, and other Obligations upon Christians, which shall be none to themselves? But let us see further what an other Act of Parliament saith to this Oath, as ensueth, *viz.*

Edward

Edward by the Grace of God, &c. The
To the Sheriff of Stafford, greeting. Statut.
Because that by divers complaints 20. E. 3.
made to Us, We have perceived Pream.
that the Law of the Land which We Letter.
by Our Oath are bound to main- Justice.
tain, is the less well kept, and the
execution of the same disturbed ma-
ny times, by maintenance, and pro-
curement, as well in the Court, as
in the Countrey: We greatly moved
of Conscience in this matter, and for
this cause, desiring as much for the
pleasure of God, and ease, and qui-
etness of Our Subjects, as to save
Our Conscience, and for to save and
keep Our said Oath, by the assent of
the Great men, and other Wise men
of Our Council: We have ordein-
ed these things following, viz.

First, We have commanded all Cap. 1.
Our Justices, that they shall from
henceforth, do even Law, and execu-
tion of right to all our Subjects
rich & poor, without having regard
to any person, and without letting to
do right for any letters, or command-
ment which may come to them from
Us, or from any other, or by any o-
ther cause. And in that any letters, *Letters.*
writs, or commandments come to the
Justices, or to other, deputed to do
Law and right, according to the u-
sage of the Realm, in disturbance of
the Law, or of the execution of the
same, or of right to the parties; the
Justices, and other aforesaid shall
pro-

proceed, and hold their Courts, and Processes where the Pleas, and matters be depending before them, as if no such Letters, Writs, or commandments were come to them. And they shall certifie Us, & Our Counsel of such commandments as be contrarie to the Law, (as before is said)

Justice And to the intent that our Justices should do even right to all people, in the manner aforesaid, without more favour shewing to one, more than to another, We have done Our said Justices to be sworn, that they shall not from henceforth, as long as they

Fees. Roabs shall be in office of Justice, take Fee nor Roabe of any man, but of Our self. And they shall take no gift, nor reward by themselfs, nor by other, privily, nor apertly of any man that hath to do before them, by any way, except meat and drink, and that of small valure; and that they shall give no counsel to a great man, nor small, in case where We be Partie, or which do, or may touch Us in any point, upon pain to be at Our will, Bodie, Lands, and Goods, to do thereof as shall please us, in case they do contrarie: And for this cause We have increased the Fees of the same our Justices, in such manner, that it ought reasonably to suffice them.

Expost and Quer. Doth not the King say here, He is bound by his Oath to maintain the Laws

Laws of the Land? Doth not the Lord *Coke* ſay before, *That a King in his Politick capacitie cannot dye?* Did not, or ought not all Kings of *England* take the like Oath as this King did? Were they not therefore bound to maintain the Laws of *England* as well as he? and to be adviſed, and ruled by their Judges, how to maintain them? as the Oath of the Judges, this Statute, and others, do manifeſt they were? Are not Judges as Immortal as Kings in their Politick capacity? Are they not bound by their Oaths, not onely to maintain, and execute the Laws of *England* againſt all men, without regard of Perſons, but alſo to adviſe their Kings to maintain them, and how ſo to do, and to hinder, or not conſent with their Kings to break them? Were not the maintenances (whereof the King here complaineth, and the procurements as well in Court, as in Countrey, whereby (he ſaith) *the laws, and the due execution thereof were diſturbed*) the remainders of the Factions of the *Spencers*, and others, who in *Edward* the 2d his time had made ſuch Judges, as had put all Laws out of all order; ſo

that this King, being *Edward* the 3d. could not reform what had been deformed hitherto? but now endeavoureth to do it by means of this Oath made in Parliament in the 18th. year of his Reign, and this Act made in the 21th. If Kings endeavoured to perform their duties (as this King did, and Judges would not) should not such Judges suffer, as in this Kings time divers did? If Kings, and Judges, (contrary to their Oaths, and Offices) omit their duties (as this Kings Father, and his Judges did) should not such Kings and Judges suffer for their defaults, as he and they did? If Kings, and Bishops did lately neglect their duties, (contrary to their Oaths, and Offices) and were punished for their defaults? why not such Judges as were the greater Delinquents for suffering them so to offend? and more for consenting thereto? And more than that, when they advised the same? If the secret Sacriledge of one *Achan* deserved Gods indignation against all his People of *Israel*, until they discovered, and punished him, and his Offence? What doth the manifest extortion (a sin no less

leſs prohibited than Sacriledge) of ſo many *Achans*, merit of Gods Judgements againſt the whole Nation of *England*, if they proſecute not, or leave unpuniſhed, their Offences, which are more than Extortions; as Perjuries, Forgeries, Sacriledge it ſelf, and divers others ſpoken of before. *Judge, O People? Judge, your ſelves, O ye People, leaſt ye be Judged.*

FINIS.

POST-SCRIPT.

IF it pleaſe the Parliament to require more proofs than common experience of the common breach of all the Common Law of England, *by our common Mercinary Judges, they may cauſe Commiſſions in* Eyer, *or other* Oyers, *and* Terminers *to be iſſued to clear the matter by more particular evidences.*

P

Exec
th

Necef
C

1

were
in the
der fe
and a
accor
placi
summ

Eight Obſervable POINTS OF LAW;

Executable by Juſtices of the Peace in their *Counties*, and Magiſtrates in their *Corporations*.

Neceſſary to be known to the COMMON PEOPLE.

1

Ounties and Sheriffs Turns, were ancient Courts in the time of King *Arthur*, & before; And in the Turns were tried all Pleas of the Crown; & in the Counties all *Common-Pleas* under fourty ſhillings without Writ; and above, to any value with Writs, according to the Law maxim, *Quod placita de Catallis, debitis &c. quæ ſummam 40ſ. attingunt, vel excedunt ſecundùm*

1. *The choiſe of all Officers of Peace and Truſt, anciently in the People, cõfirmed by* Magna Chart.

secundùm legem & consuetudinem Angliæ, sine brevi Regis placitari non debent. See the Lord *Coke* upon the 35th Chap. of *Magna Charta*; and upon the Statute of *Glouceſter* fol. 310. & 312. Hundreds, and Court Barons have the ſame power, and rights, and neither Sheriffs nor Stewards are Judges, but ſuiters onely, fol. 312. And ſo all men were to have Law and Juſtice at home, cheap and near, and not to fetch it from *Weſtminſter*, far and dear. And the Conſervators, otherwiſe called Guardians of the Peace before *Magna Charta*, and ſince; had all neceſſary power to govern their Counties in Peace, and to execute all Laws conducing thereunto, and to command the power of their Counties to aſſiſt them; and were choſen (as all other Officers of Peace and Truſt were) by their Counties, as the Lord *Coke* affirmeth.

2. *This* Mutuatus *is uſual in the* Kings-Bench, *and* Common-Pleas, *to fetch poor men not worth* 40. s. *from* York *or* Cornwall *to* London, *for* 5. s.

2. As Superiour Courts ought not to incroach upon Inferiour, ſo the Inferiour ought not to defraud the Superiour, of thoſe cauſes that belong

to them : *viz.* Neither ought a man be ſued in any Court of *Record* for debt not amounting to 40ˢ. by way of *mutuatus*, and other lawleſs tricks dayly uſed by Attornies ; nor in any inferiour Court for debt of 40 ſhillings, or exceeding, by dividing it into Actions under 40 ſhillings. In which caſes the Defendant ought to be admitted to plead to the juriſdiction of the Court, and to have a *Prohibition* to ſtay the ſuit : ſee the Lord *Coke*, upon the Stat. of *Glouc.* fol. 311. And all Courts were to diſmiſs all Actions entred without ſufficient bail to proſecute, anſwerable for coſts and damages. If non-ſuited, or caſt; and not *Jo. Do.* and *Rich. Ro.* as is uſed. See *F. H.* Juſt. P. the Regiſter, and *Fitz. H. Nat. brevium* at large. And no Court of *Record* was to proceed in any action of debt, before the Plantiff ſwore his ſaid debt to be 40ˢ. or more, and his damage in treſpaſs to be ſo much at leaſt : And if Battery, that he was beaten indeed, to his uncurable hurt to that value. See the Stat. of *Glouc.* and the L. *Coke* upon it, with his

debt or leſs, and to Outlaw him in the Common-Pleas, *if he come not ; which example other Courts of* Record *follow too much.*

reason for the discontinuance of this practice.

3. Doth not the denial of an Habeas Corpus, *to bring a prisoner before a Judge without Fees, (both to Judge and Attorney) include the sale, delay, and denial of Justice, while the prisoner is unprovided to buy it.*

3. All the Kings Writs for the doing justice and right to all men freely and speedily, without delay or denial, ought to be granted, and had freely at the Kings cost: And justice ought to be done freely, without sale; fully, without denial; and speedily, without delay: whereby (saith the Lord *Coke*) it appeareth that justice must have three qualities, *viz.* To be Free, because nothing is more vile, than what is venal; Full, and perfect, that it may not halt; And speedy, because delay is a kind of denial. See the L. *Coke* upon the Stat. of *Marlbr.* chap. 80. Thus to have and do, was the Common Law of *England*, and the Liberties, and Right of the *People* before *Mag. Char.* and saved unto them by it: and the best Birth-right they ever had, or can have; whereby their Lands, Goods, Wives, Children, Bodies, Lives, Honours, and Estimations ought to be protected from injuries. See the L. *C.* upon the 29 & 38 c. of *M. C.*

4 There-

4. Therefore *Magna Char.* ought to be read, and published to the People in all Cathedrals twice yearly: And all breakers thereof are excommunicated *ipso facto*, and so twice pronounced by two Acts of Parliament, *Tit. confirm. & excommengm^t. in Rast. abridg.* fol. 65. and 148. And it ought to be read in full County in every shire, four times yearly, and all the breakers thereof inquired of there; and further inquired of, and punished by Fines, Imprisonments, *&c.* by Justices in *Eyre*, two of every Counties chusing, whereby 12. or 14. may serve in circuits throughout *England*, and *Wales*, divided into six or seven Provinces, as twelve did serve for all *England* divided into six. See, and compare *Rast.* abridg. fol. 65. and *Rog. Hoveden parte poster. Annal.* fol. 548. The not reading, and publishing of *Mag. Char.* is the default partly of Sheriffs not requiring it; partly of the Clerk of the Crown, *&c.* not sending it to them under Seal. All defaults of Sheriffs, *&c.* are inquirable, and punishable by Justices of

4. *All defaults, & offences of Sheriffs, Coroners Escheatours, &c. inquirable, and punishable by Justices of Peace.*

Peace; as *Lamb. Fitz. H. Cromp. Dalt.* &c. affirm at large.

5. Observe the peoples choice resumed by this Statute, when the King presumed to make Justices of P. and under that Specious Title to impower them, first to affront, and by degrees to suppress, and at last to extinguish the larger power of Conservatours. A Prerogative imposture devised by Lawyers for their own advantage, when they got the King to confer this creation of Justices of Peace, upon his Chancellours, and Keepers, to whom their creatures became obliged to subject all England *to* Westminster, *contrary to* Mag. Char.

5. Justices in *Eyre* are discontinued long since, and not onely for that they were interrupted, and wearied out by the Prerogative Judges, and Courts at *Westminster* by their *Certioraries*, *Corpus cum causa*, *Errours*, and other Writs (as the Lord *Coke* confesseth in his Exposition of the Stat. called *Art. super Chart.* fol. 540.) but also for that Justices of Assize, Justices of Peace, and all Oyers, and Terminers by their Commissions, and Magistrates of Corporations by their Charters, were enabled & sworn to hear and determine all Trespasses, Contempts, Oppressions, and Misdemeanours, according to the Laws and customs of *England*, as appeareth in, and by all Commissions of the Peace, Oyers, Terminers, and Charters that have Oyer and Terminer, and by the Stat. made for the first

ſt inſtitution of Juſtices of Peace, the 18th year of *Ed.* 3d. in which ar was alſo ordained the Oath of all dges, and Juſtices of Oyer and erminer for the due execution of ſtice, without ſale, delay or denial, hich the thrice reverend Judge *thony Fitz Herb.* admoniſheth em that conſider it, and their du- to God, and their Countrey, not break upon any conditions, *Nat. evium* fol. 240. d. but now the ommon practice is otherwiſe.

6. Any that Will, ought have Commiſſions of yer and Terminer for l Extortions, Oppreſſi- ns, and Miſdemeanours f Sheriffs, Underſheriffs, ſcheatours, Bayliffs, lerks, and all other Of- cers: See *Cramp.* Juſt. eace, fol. 51. 8. *Fitz. H. at. br.* fol. 112. d. And uſtices of Peace, and all ther Commiſſioners that ught by their Commiſ- ons, and Oaths, to puniſh all ſuch of- nces, & do not, are no leſs than pur- rers, and the greateſt malefactours f all other, themſelves. Nor can any Writs

6. *Juſtices of Peace ought not to be ſeduced to tranſgreſs* M. C. *and the* Petition of Right, *by any Stat. that contradicts them, nor to loſe the publike intereſt for any Prerogative uſurpation, but to re-aſſume their authority frō People, to act as conſervatours of the ancient peace, and profit of the Commonwealth: as in caſes of* Remitter, *men ſtand to their beſt Title.*

Writs of *Certiorari*, *Corpus cum cauſa*, *Errour*, *Superſedeas*, or putting out of Commiſſion, excuſe or ſupercede them to finiſh their Judgements, and Executions in all ſuch cauſes brought in queſtion before them: See and compare the Stat. of 2. *Ed.* 3. and 14. *Ed.* 3. 14. and the 20. *Ed.* 3. 1. and the *Procedendo* thereupon in *Fitz. H. Na. Bre.* fol. 240. where it is ſaid; *They ſhall proceed to juſtice according to law, notwithſtanding any Letter, Commandment, Prohibition, Writ, Privy-Seal, or Great Seal to the contrary.* And if any ſuch things be granted by the King, or any of his Judges, or Coutrs, ſuch a *Procedendo* ought to be granted by the Keeper of the Broad Seal to countermand them; and to command juſtice, judgement, and execution to be done, even againſt the King, much rather againſt Judges, who under colour of Authority and juſtice, delude and wrong Kings, and *People*: *For* (ſaith the L. *Coke* upon the Stat. of *Marlebridge*, cap. 5.) *there is no greater injuſtice, than when under colour of Juſtice, men are injured*: but *Writs of* Certiorari Corpus cum *cauſa, and Errour*, ought to be had, and granted, upon

on proof of malice, partiality, in-
ſtice, or errour in matter, commit-
d by any inferiour Court, but not
on ſuggeſtions, or bare ſuppoſiti-
ns, as is uſed: See and compare
erefore all the ſaid Statutes in this
ſe, together with M. *Dearhams*
anuel, p.25. Nor by any Superiour
dges or Courts that are parties, or
ncerned in the cauſe. see the L.
ke upon *Art. ſuper Chart.*

7. The granting of
rits, or Commiſſions
do injuſtice by, or to
y, or delay juſtice,
here it is done, or do-
g; or to deny Writs or
ommiſſions to cauſe or
rther juſtice to be
one, (which always
as, and yet is the practice of the
erogative Judges at *weſtminſter*;
t onely to croſs, & interrupt Com-
iſſioners legally choſen in, and by
eir Counties, (as Juſtices in Eyre
ere) and ſuch, and all Juſtices
Peace, and Officers of Truſt, and
ncernement in, and to the Com-
on-wealth, ſtill ought to be) is the
rſt of all Oppreſſions, and a ge-
ral deſtruction of Law and *People*,

7. *Theſe oppreſſions are daily committed by mercinary lawyers, by colour of Statutes of their own devices againſt* Mag. C. *which Stat. ought to be repealed, & the longer execution thereof reſiſted by all, or any neceſſary means.*

com-

committed by colour of an usurped Authority, as saith the L. *Coke* upon the Statute of *Marlebr.* cap. 5. To prevent which (his Lordship further saith) *It is lawful for the People to take up Arms, or for Inferiour Judges to commit their Superiors and that before any Verdict, or Judgement, because they worthily loose the benefit of Law, who intend to subvert it; and Subordinate authority is more to be obeyed, and assisted in the execution of Justice, than the Supreamest to be indured to obstruct it.* All this, and more, is to be read in effect, in the L. *Cokes* Exposition upon *Art. super Char.* and the Stat. of *Marlebr.* which if executed by Justices of Peace in their Counties, and Magistrates in their Corporations, would soon regulate abuses, settle Peace, and much inable the State, and Common-wealth to pay publike debts, and relieve distressed Souldiers: For it is Law it self, as virtue it selfe, invirtuateth, dignifieth, and authorizeth her true servants to execute her precepts; and confoundeth, expulseth, and turneth out of her service all her unjust Stewards, and undermin̄ers: As *Jacob*, and *David* were

ere preferred before their elder ethren; and *Saul*, *Jeroboam*, &c. ere confounded by, and for their vn Apoſtacies.

8. Under the Titles of reſpaſes, Contempts, ppreſſions, Miſdemeaours, are comprehended l breaches of *Magna har.* and all Offences ainſt all Statutes in rce, and concurrent ith *Mag. Char.* and the *etition of Right*, which l Juſtices of Peace, and lagiſtrates in their ſeeral juriſdictions, are uthorized, and ſworn hear and determine, ithout fear, favour or reſpect of perns. How then to be excuſed, or elayed by any Writ, or command f any Superiour? And how are the dges of the *Kings-Bench* (whereof e cheif was the Kings Deputy by Vrit) now Superiour, or equal to any ther Judges, or Juſtices? If that maim be true *moritur Actio cum Perná*? But the Office of a Deputy yeth with its Maſter, as a Letter or Warrant of Attorney, with its maker:

8. *As in all theſe caſes, &c. all Juſtices of Peace ſhould be carefull to obſerve their Oaths, and perform their duties to the Common-wealth (whereof they are eminent members) So, no doubt the Freemen of* England, *would be ready to aſſiſt them in the regaining and preſervation of their ancient Birth-rights, Laws, and Liberties.* Deus Faxit.

ker: the *King-Bench* may be ſpared as well as his perſon? And all cauſes in this Common-wealth, be called Common-Pleas, and tryed by the Common Law of the land, and Verdicts of common people, and Free-holders of every County, and Corporation, before the Free Judges, & Magiſtrates freely choſen by the ſaid Common and Free-People, to juſtifie them at home, and not before mercinary makers, expounders, and ſellers of all Lawes, and Liberties, as they pleaſe at *weſtminſter*. And doth not the ſaid Stat. of 28. *Ed.* 3. warrant Juſtices of Peace, or any two of them (whereof one to be of the *Quorum*) to call and keep Seſſions as often as they ſee need to do juſtice to their Countrey? See the Stat. at large, and *Cromp. I. P.* fol. 112. and *F. H. I. P.* fol. 10.

Whereunto adde, That as *Magna Charta* compriſeth all the Law of this land agreed upon by Kings and People, and would be read and publiſhed in Engliſh (as aforeſaid) for the better underſtanding thereof by all Engliſh People, to the end, that the ignorance of their Law, ſhould be no excuſe for any of them to tranſ-

nſgreſs it: So how needleſs it is,
not peſtiferous, to have this Com-
on-Law reduced to a private mer-
narie Trade, or particular ſcience
xceeding the ſeven Liberal, by ſuch
ofeſſours thereof, as have, and do
ndeavour to diſguiſe, mask, and
de it from all but themſelves, in
ſe French, and Latine intricacies
nd obſcurities, to the end to make
ll perſons offendors thereof, and
one excuſable, but by their reſolu-
ons of their own Riddles, which
e alwaies anſwerable to their Fees
e the cauſe right or wrong) where-
y the cure of Law becometh an in-
rable diſeaſe, until that ſuperflu-
us mercinary profeſſion be aboliſh-
d, or regulated, ſo as the beſt and
undeſt Lawyers may be uſed in
arliaments (as in former times) to
t upon Wol-ſacks, to anſwer to
hat that high Court ſhall be pleaſ-
d to aske them, and not as mem-
ers of that Court, to make Lawes,
nd Oaths for others, which they
ever obſerve themſelves but for
eir own gain, and the peoples da-
age: To which end, they alwaies
eamble their inventions againſt
lag. Char. with titles of Acts for the
good

good of the people, when in their subsequents they hurt all but themselves; As (passing by all former) their last Acts for the inlarging of poor prisoners for debt, sufficiently witness; whereby neither creditor nor debtour are any way relieved, but both further entangled, and Lawyers Fees more procreated; *Videat experientia. Conclusivè*; That there can be no firm peace, or end of Wars, till there be an end of mercinarie professours of Law, less needful, or useful for Parliaments or People, than Bishops, or such as might be used there, or elswhere, for saying, or reading prayers; while these neither pray, preach, nor study, but their own lucrative magnificence every where upon the peoples purses.

Adde lastly; Such Justices of Peace as will not execute *Mag. Char.* with its confirmations, and the *Petition of Right*, and desert, and wave the execution, and practice of contradictory Statutes, (for zeal to their Creatours, or fear to be unmade by those that made them) ought to be deferred and waved by all good Patriots of their countrey, as excommunicated

ated perſons, and breakers of *M.*
a. And ſuch onely as will execute
ag. Ch. &c. ought to be confirmed
the choiſe of the *People* in their
unties reſpectively, whereby
ey may act as the ancient Conſer-
ours of the Peace did by the
ommon Law of *England* before
lag. Char. and ſince, which was, to
nſerve the Peace of *England* by all
ceſſary means, word, or ſword; un-
nited by Prerogative Statutes de-
ſed by mercinary Lawyers, to ſteal
om the People their birth-right
uthority in the name of the King,
nto themſelves, to ſell, delay, and
eny it at their pleaſures; which to
o, is apparently contrary, not onely
Mag. Char. and the Common Laws
England, and alſo to common rea-
n, but chiefly to the divine Provi-
ence of God: for neither Law, Rea-
n, nor Divine juſtice, would or-
ain a man to conſerve the publike
eace of Gods people (which peace,
they, is his own) without giving
at man an unlimitable power, by
hich he may execute his Office,
d without which he cannot.

FINIS.

SOL ET SCUTUM DEUS EST NOBIS

THE PEACE of JUSTICE,

OR,

The Authoritie of a JUSTICE of PEACE:

Anciently eſtabliſhed amongſt the firſt Principles of the fundamental Laws of *England*, under the the names of *Conſervators*, &c.

Continually Confirmed by *Parliaments* from time to time; but eſtſoon over-born by corrupt ſuperiorities, till now reſtored to its priſtine Libertie, by *The Keepers of the Libertie of ENGLAND* by Authoritie of *Parliament*: and lately ſet forth by their ſeveral Commiſſions under the great Seal of *England*, directed to the Chieftains of the ſeveral Counties, Cities, and Liberties thereof:

One of which, being for the Liberties of *Weſtminſter* and S. *Martins* le Grand *London*, is herein Engliſhed, Interpoſed, and Poſt-ſcribed with ſome reaſons extracted out of Statutes, and ſother Authours, for the better underſtanding, and ſatisfaction of all whom it may concern.

By JOHN JONES, of the *Neyath*, in Com. *Brecon* Gent.

Nulla ſalus Bello, Pacem te poſcimus omnes.

London, Printed by *W. Bentley*, for *W. Shears* at the *Bible* in S. *Pauls* Church-yard. 1650.

To the
HONOURABLE
COLLONEL
THOMAS PRIDE,
One of the *Fustices* of the *Peace* for the Countie of *Middlesex*, Liberties of *westminster*, and S. *Martins* le Grand *Lond.* &c.

SIR,

HAving dedicated my former Treatise, intituled, Judges Judged out of their own mouthes, *to all the people of* England *universally; now in respect of the integritie I have found*

in your ſelf, in behalf of them all, to cauſe that to paſs the Preſs, *for the view and good of all; I thought my ſelf bound in dutie to devote this Tractate of* Peace *to your ſelf that are one of the* Juſtices *of* Peace, *named in the* Commiſſion *which I have here choſen to Engliſh, and to Comment upon, to my beſt abilitie, in ſo ſhort a time as I had ſince it came to my hands, to diſpatch it before your departure to your Rendezvouſe.*

Sir, I beſeech you be pleaſed to give me leave to paſs it under your name, & vouchſafe to accept ſo ſimple a gift, of an heartie giver : The

ſubje

ſubject concerneth both Peace *and* War, *and cannot be ſafely protected from the Enemies of either, (whereof* Peace *hath too many) but by a man eminent for his power, and intereſt in both, with this difference obſerved by* Cræſus *king of* Lidea, That in times of *Peace*, Sons buried their Fathers, but in times of *War*, Fathers buried their Sons. *And ſo much precedence to be given to* Peace *before* War, *as to* Mercie *before* Juſtice, *neither of which can ſubſiſt, one without the other, but well conſiſt both together, as the God of* Peace, *and Lord of* Hoſts, *are but the ſelf ſame*

Deitie, united in the Spirit of God, which whereſoever it is, there is Libertie, 2. Cor. 3. 17. *Which Libertie God grant* England.

So wiſheth and prayeth,

Your daily Oratour,

JOHN JONES.

The

The Commission.

THe Keepers of the Liberty of ENGLAND, by Authoritie of PARLIAMENT, To William Lenthal Speaker of the Parliament; Thomas Lord Fairfax, Lord General of the Army raised for the Parliament; John Bradshaw, Lord President of the Councel; Bouldred Whitlock, Richard Keeble, John Lisle, Lords Commissioners of the great Seal of ENGLAND; Robert Earl of Warwick; Charls Earl of Notingham; William Earl of Salisbury; Basil Earl of Denbigh; William Lord Gray of Wark; William Viscount Monson; Henry Vane the elder Knight; Henry Rolles, Chief Justice assigned to hold Pleas before us in the upper Bench; Oliver S. John, Chief Justice of the Common-Pleas; John Wild, Chief Baron of the publick Exchequer; Edward Prideaux, Attorney general of the Common-wealth; Edward Powel Knight and Baronet; Humphrey Foster Baronet; John Danvers Knight; Henry Vane the ponger Knight; John Hippesley Knight; John Thorowgood Knight; Henry Holcroft Knight; Humphrey Edwards; Laurence Whitaker; John Brown; Henry Scobel, Clerk of the Parliament;

Edward Birkhead, George Manley, Roger Hill, John Trenchard, Michael Oldiworth, John Moor, Thomas Latham, John Hooker, Thomas Pride, Thomas Herbert, Thomas Falconbridge, John Helyn, Edward Carter, Silvanus Taylor, John Humphreys, William Powel, Arthur Squib the younger, and Samuel Gooken Esquires.

Know you, that we have assigned you, and every of you, together, and apart, Justices, for Conservation of the Peace within the Libertie of the late Dean and Chapter of the Collegiate Church of S. Peter Westminster, for the Citie, Burrough, and Town of Westminster, in the Countie of Middlesex: And for S. Martins *le Grand* London. And to keep, and cause to be kept, all Ordinances and Statutes made, and provided for the good of the Publick Peace, and for the Conservation thereof, and for the quiet rule and government of the People in all and singular the Articles therein contained, within the said Liberties, as well within Libertie as without, according to the Force, Form, and effect of the same.

And to Chastice and punish all and singular Delinquents against the form of the said Ordinances, or Statutes, or any of them, within the said Liberties, as according to the form of the said Ordinances, or Statutes is ordained to be done. And to cause to come before you, or any of you, all those which did, or shall threaten any of the people to hurt them in their bodies, or to burn their houses, to find sufficient

ſufficient ſecuritie of the Peace, or Good-behaviour towards all men; and if they refuſe to find ſuch ſecuritie, then to cauſe them to be ſafely kept in Priſon, until they find ſuch ſaid ſecuritie.

Thus far this commiſſion extendeth to the execution of ſuch Ordinances and Statutes, as onely concern the Peace, and Good-behaviour, of which there are very many, and ſome of them executable by one Juſtice, and ſome not; but in caſe of neceſſitie, for the ſpeedie prevention, or ſuppreſſion of unlawfull Aſſemblies, forceable Entries, Riots, and Outrages, and for the correction of Ale-ſellers, Gameſters, Profaners of the Lords day, common Swearers, Drunkards, *&c.* one Juſtice next at hand is ſooneſt had, and moſt bound, required, and authorized by the words, *you or any of you*, in this Commiſſion, to do that duty: And alſo by the words of the Statute, 34. *Ed.* 3. 1. upon which this Article is grounded, to bind to the Peace, or Good-behaviour any that ſhall threaten violence to others, by ſword fire, or other means: ſee *Crom. J. P.* fol. 128. And thus far, and further did *Interp.*

did extend the authoritie of *Conſervatours* of the Peace before *Mag. Chart.* or any Laws were written in theſe caſes, the fulneſs of which authoritie was ſupplied (in what it wanted, by the expreſs words of ſuch a large Commiſſion as this,) by implication of a few words, in a ſhort one, as you may read in the beginning of *Lamb, J. P.* briefly importing, that no power or authoritie of law, ought to be wanting in any Juſtice of Peace, to perform the duty of his office, for it is Law it ſelf, that no mau ſhall want the means, to perform that which the law requireth to be performed by him: So that if *Peace* could not be maintained without War, a *Conſervatour* of the Peace, had the power of his Countie, to inable him that way, and ſo a Juſtice of Peace hath ſtill. And *Edward* the 3 d, that firſt changed the name of *Conſervatours* to *Juſtices*, and aſſumed both the naming and chuſing of ſuch officers from the people (who formerly chuſe them, and all other officers of truſt in their full Counties, in every ſhire, and Kings onely granted Commiſſions to ſuch as were ſo choſen, and altered

thoſe Commiſſions at the peoples requeſt, whenſoever they pleaſed to alter their officers;) did make his choice of ſuch Juſtices, (although to his own ends, yet very wiſely,) of ſuch perſons, as were beſt affected by the people for their known integrities amongſt them, and moſt reſolute and able to keep under his Laws, and Rule, thoſe Lords and former Superiours both of Law and Juſtice, whom he had ſubjected more by his ſword and policie, than right at that time; and therefore joined theſe Juſtices in Commiſſion with Lords and Judges, that they might be their equals in government ſo long as they behaved themſelves well, and their ſuperiours by the ſame power to govern and chaſtiſe them, whenſoever they misbehaved themſelves: for Lords, Judges, and Juſtices of all ſorts may, and too often do tranſgreſs the laws, as other men, and ſo of equals or Superiours, become ſubject to the juſtice of their aſſociats in Commiſſion (reputed otherways their inferiours;) being tranſfigured from Superiour Judges of the Law, to Inferiour Treſpaſſers againſt it, Indictable by their Peers,

Peers, of the Counties, wherein they offend, and puniſhable in the Court, where their Indictments are taken, as you may read in the Stat. 2. *Ed.* 3. 8. 18. *Ed.* 3. 3. and 20. *Ed.* 3. 1. abridged by *Raſt.* fol. 227. which (though rarely practiſed) can be no more ſtrange to Lawyers, than when for falſe judgements 44 Judges, were hanged in one year, whoſe names and cauſes in brief, you may find in *Horns* Mirror of Juſtice, *P.* 239. 240. 241. and 242. Nor for Divines, than when an Arch-Angel, was by verdict of his Peers, and equals, the reſt of the Arch-Angels, and judgement both of them, and of the Angels that were his inferiours, doomed from Heaven to hell, from perpetual joy, to everlaſting torment; and transformed from an Angel of light, to a Prince of darkneſs. Nor need it be a wonder to any that know the lawfull deſcent of inheritance, from the elder brother, that dies without iſſue of his bodie, to his next living brother; for what is a Judge that ceaſes to do juſtice, or doth injuſtice without regard of his oath or conſcience, but a dead man in his judgement? whoſe judicature thereupon deſcends, and

ſpirit

spirit passes (as *Sauls* to *David*) to the next chosen vessell of justice, that neither will nor can but judge himself to death, when detected to himself, to be thereof worthy, as *David* did when discovered by *Nathan*, how he had trespassed against *Uriah*. Well therefore did *Edward* the 3d call them Justices in *abstracto*, whom he assigned to do justice in *Concreto*, & not Justicers or Judges, as *Glandvil* saith, their ancient name was Justices, to mind them not onely to do, but to be justice it self to all men without respect of persons, otherwise than to value them for their Crimes, and those so much the greater by how much the Actors are, and would be so esteemed. Justices of Peace therefore sworn and authorized to be Justices indeed, and to proceed according to the force, form, and effect, of the Ordinances, Statutes, Laws, and customs of *England*, so far as this Commission declareth they are, ought to be so sincere and severe in the execution thereof, as to perjure themselves for no man.

We have also assigned you, and every two, or more of you, (whereof we Commiss.

we Will William Lenthall, Thomas Lord Fairfax, John Bradshaw, Boulstred Whitlock, Richard Keeble, John Lisle, Robert Earl of Warwick, Charls Earl of Notingham, William Earl of Salisbury, Basil Earl of Denbigh, William Lord Gray of Wark, William Viscount Monson, Henry Vane the elder, Henry Rolls, Oliver S. John, John Wild, Edmund Prideaux, Edward Powel, Humphrey Foster, John Danvers, Henry Vane the younger, John Hippesley, John Thorowgood, Henry Holcroft, Humphrey Edwards, Lawrence Whittaker, John Brown, Edward Birkhead, George Manly, Roger Hill, John Trenchard, Michael Oldsworth, John More, Thomas Latham, John Hooker, Thomas Pride, Thomas Herbert, Thomas Falconbridge, and John Helyn, to be one,) Justices, to inquire by the oaths of honest and lawfull men, of the said liberties, by whom the truth of the matter may be known, of all, and all manner of Felonies, Witchcrafts, Inchantments, Sortileges, Art-magick, Trespasses, Fore-stallers, Regrators, Ingrossers, and Extortions whatsoever. And of all and singular other Malefactours, & offences, of which Justices of Peace may, or ought lawfully to inquire, by whomsoever, and howsoever done or committed, or which hereafter shall happen to be done, or attempted within the said Liberties. And also of all them which within the said Liberties in Conventicles against the Peace, in perturbation of the People, or by force of Arms, have gone,

or

or ridden, or hereafter shall presume to go, or ride: And also of all such who there, to the threatening of the Nation, or to kill them, have laid in wait, or hereafter shall presume so to do. And also of all Hostlers, and other persons whatsoever, which in abuse of weights and measures, or in selling victuals contrary to the forms of the Ordinances, or Statutes, or any of them, thereof for the common utilitie of England, and the people of the same, made, have offended, or so attempted, or hereafter shall presume so to offend, or attempt, within the said Liberties. And also whomsoever Bayliffs, Stewards, Constables, keepers of Goals, and other Officers, within the execution of their Offices, concerning the premises, or any of them, have unduly behaved themselves, or hereafter shall presume so to do, or have been fearfull, remiss, or negligent, or hereafter shall happen so to be within the said Liberties. And of all and singular Articles, circumstances, and other things whatsoever, by whomsoever, and howsoever, within the said Liberties done, or committed, or which hereafter shall be done, or attempted in what manner soever, concerning the truth of the premises, or any of them. And to behold all Inditments whatsoever so taken, or to be taken before you, or any of you, or before any of the late Justices in the said Liberties taken, and not yet deter-

determined,. And to make and continue all Proces thereof, against all manner of persons so Indicted, or which before you shall happen to be so Indicted, untill they be taken, yield themselves, or be Outlawed. And to hear and determine all and singular Felonies, Witch-crafts, Sortileges, Arts magick, Trespasses Fore-stallings, Regratings, Ingrossings, Indictments aforesaid. And all and singular other the premises, according to the Laws and Statutes of England, as in such cases was used to be done, or ought to be heard and determined. And to chastise and punish all the said Delinquents, and every of them, for their offences respectively, by Fines, Ransoms, Amerciaments, Forfeitures, and other means, as according to the said Laws and Customs of England, or the forms of the said Ordinances, or Statutes were, or ought to be done. Provided always, that if any Case of difficultie upon any Determination of any the premises before you, shall happen to arise, then to give judgement, unless it be in the presence of one of the Justices of one Bench, or other, or one of the Justices of Assize assigned in the said Countie, you shall forbear to proceed. And therefore we Command you and every of you, that to keep the Peace, Ordinances, and Statutes, and all and singular other the premises, diligently to attend, and at such certain days, and places, which you, or any such said two, or

more

more of you shall appoint as aforesaid, you shall make inquiries upon the premises. And all and singular the premises you shall hear and determine, and the same you shall do and fulfill in form aforesaid, being to do therein what appertaineth to Justice, according to the Law and Custom of England; Saving unto us our Amerciaments, and all other things unto us in this behalf belonging. We command therefore by the tenor of these presents that you, or any such said two, or more of you, as aforesaid, shall make known the same to the Bayliffs of the said Liberties, that then they shall cause to come before you, or any such said two, or more of you, as aforesaid, such and so many honest and lawfull men of the said Liberties, as well within Libertie as without, by whom the truth of the matter in the premises may be best known and enquired. Lastly, we have assigned the said John Bradshaw Keeper of the Rolls of the Peace within the said Liberties: And that therefore thou at the times, and places aforesaid, cause to come before thee, and thy fellows, the Writs, Precepts, Processes, and Indictments aforesaid; that the same may be perused, & duly, and finally determined as is aforesaid. In witness whereof, We have caused these our Letters to be made Patent.

Witness Our selves at Westminster,
the 15 day of February
in the Year 1649.

Here

Post-script. Here are ſome particular Treſpaſſers & Treſpaſſes, inſtanced with an indefinite concluſion of all others, which Juſtices of Peace may or ought to enquire, by whomſoever, or howſoever committed or to be committed. Now what act of injuſtice can be but is a treſpaſs? What Treſpaſſer can be, but is included in the word whomſoever? What manner of Treſpaſs can be, but is comprehended in the word howſoever? And what Juſtice of Peace can be, and be ſworn as aforeſaid, to execute this Commiſſion, and the Ordinances, and Statutes therein mentioned, according to the force, form, and effect thereof, that can omit to enquire of, and puniſh all Treſpaſſers and Treſpaſſes, within his juriſdiction accordingly, without committing that damnable ſin of Perjurie, prohibited by the ſecond Commandment? It is true, all of them live not always within their juriſdiction, and ſome that do, are often imployed upon other publick ſervices, on the like Oath, and ſome may be ſick, *&c.* ſo that many may be often lawfully wanting in this; are not therefore any two or more, of ſo many named in this Commiſſion

Commiſſion ſufficiently authorized, nd ſtrictly injoined by it, not onely o enquire, but alſo to hear and de-ermine, all and ſingular Treſpaſſes foreſaid? And doth not the ſame tatute, that appointed them quar-er Seſſions, alſo allow them as many eſſions as they ſhall ſee needfull o hold, to perform their duties? hen what *Remora* can ſtay, or *Luci-r* fright them all, ſo that not ſo ma-y as two of them be ready at all mes to ſerve the Common-wealth n their office, and to diſcharge iemſelves really in that behalf? le thinks I hear ſome anſwer; Writs, and Commands from ligher powers: I ſay, this *Dilemma* cleared before in *Lucifers* own ıſe: Yea, but (ſay they) this pra-iſe holdeth; and if not obeyed, uſtices of Peace, like ſervants, are by heir Maſters, the Lords Keepers, Chancellours, turned out of their Commiſſion. I confeſs it is too often rue; but are not they mad Maſters hat turn their ſervants out of their rvice for doing it? and are not *ide-wels*, and *Bedlam* as fit for mad laſters, as for unruly Servants? are ot the Laws powerfull, and plenti-

full

full for the ordering of Masters, as well as servants? (Two Justices of Peace in my native County, *Brecon*, offering to break the peace with their daggers drawn one against the other, in presence of a Constable (that was servant to the one, and more inferiour to both, than any Justice can be to any Lord Chancellour) who arrested them with his sword, till they gave him bonds to keep the peace, which was the duty of their office, and his, and returned their bonds to Sir *John Crook* then Judge of that Circuit, who commended the Constable, and told the Justices (then sitting with him upon the Assizes) they ought to be Indicted of Perjurie.) If higher Justices transgress justice, is not their case the same? It is want of that worth therefore that becometh this Authoritie, and not a Writ surreptitiously obtained, or granted *ex improviso*, (which cannot determine Justice, although it may oppose it, while Justice in the interim may have the better opportunitie to determine Injustice) sometimes maketh some Justice of Peace desist in the due execution of his Comission, and

incur

incur Perjurie, as aforesaid. For ſuppoſe a Catch-pol, or a Goaler be indicted, impriſoned, and arraigned for Extortion in a Seſſion of Peace, and procureth a *Certiorari*, *Habeas Corpus*, or *Corpus cum cauſa*, to remove himſelf, and his cauſe to one of either Benches, or a *ſuperſedeas* to proceed any further therein, or in the Commiſſion of the Peace at all; it is true, that thoſe Courts, and others, may grant ſuch Writs, and others, and too often do, upon meer ſuggeſtions of injuſtice done, or like to be done, or ſome partiallity ſhewed by ſome Juſtice of Peace, *&c.* to either parties; but (ſay the Statutes) 35. *Ed.* 3. cap. 4. Stat. 5. and 37. *Ed.* 3. cap. 18. and 38. *Ed.* 3. cap. and 42. *Ed.* 3. cap. 3. and 17. *Rich.* 2. cap. 6. the ſum of all which you may ſee in *Raſt. Abridgement tit. Accuſation*, fol. 5. Such ſuggeſtions ought not to be received, but the Suggeſtours puniſhed, and the traduced righted; ſo that the grantors of ſuch Writs ought to have good cauſes for the granting thereof proved, before they grant them; or elſe they incur ſo many Perjuries, as breaches of the ſaid Laws, and thereupon

upon ought to be Indicted, an judged by Juſtices of Peace of that limit wherein the offence is committed, who ought not to deſiſt in their proceedings for any ſuch ſaid Writs (as hath been formerly ſhewed) unleſs they commit wilfull Perjury in ſo obeying, as the granters do in ſo granting, who ought not to grant any ſuch Writs, but for the cauſes ſet down for every writ in and by *Fitz. N. B.* and the *Regiſter*, in their ſeveral titles, upon due proof made of thoſe cauſes before their grants, (as aforeſaid) and a *cauſam ſignifices* ought to be ſent to a Juſtice of Peace for himſelf to certifie why he obeyeth not the *Certiorari* before any other proceeding (than a *Plures*) be had againſt him; whereupon, if he certifie any lawfull cauſe for him to proceed, as that he knoweth, or findeth by due proof, the juſtice and merit of the cauſe depending before him, and that he is authorized and ſworn, (as aforeſaid) or findeth the Writ to differ from the Record; then whatſoever power proceedeth againſt him; without proof of injuſtice done, or partiallity ſhewed by him in that cauſe, ſheweth it ſelf parti-

al

l and unjuſt in ſo proceeding, and it to be overpowered by the ſtrength of the Countrey, if otherwiſe it will not. And whatſoever lawfull Commiſſion ſuch Injuſtice ſhall offer to ſupercede, Law and Juſtice warrant to be executed, any ſuch *Superſedeas* notwithſtanding, as the Statutes before cited declare at large. Therefore let me proceed in the caſe ſuppoſed; An extorting Bayliff indicted, impriſoned and arraigned, procures a Writ to remove or ſtay his cauſe; the Juſtices may and ought to proceed to judgement and execution, and their certificate of the cauſe of their non admiſſion of ſuch Writs, ought to be a ſufficient ſatisfaction to the Granters, for thereby the Offendour hath that juſtice he ought to have, by the hands of the ſaid Juſtices, who onely ought to give it him, and are ſworn and authorized ſo to do, (as aforeſaid;) and the Granters who are ſworn not to delay, or hinder it, have their lawfull and timely prevention from ſo great a miſchief, as (if they proceed further, or otherwiſe upon ſuch Writs,) is no leſs than manifeſt Injuſtice, and wilfull Perjury, both in-

quirable, and puniſhable by Juſtices of Peace within their limits, by this Commiſſion, and the Statutes before mentioned; and the Statutes of 5. *Eliz.* 9. 14. *Eliz.* 11. 27. *Eliz.* 11. and 28. *Eliz.* 5. See *Cro. I. P.* fol. 17. and 116. And if indicted, the Juſtices of the Peace before whom ſuch indictments happen to be, have full power to iſſue their Writs, *viz. venire facias* to the Sheriff of the County, or Bayliff of the Liberty, which if he return with a *habet*, then *diſtringas ad infinitum*; if with a *nihil habet*, then a *Capias*, which if he return with a *non eſt inventus*, then an *Exigent*, and *ut legat.* to arreſt and imprison the indicted whereſoever found. And then a *Habeas Corpus* to bring him thence to his tryal where he was indicted, and the offence committed. And then if any evidence be wanting to convict or attaint, a *Certiorari* to fetch any Record, or the tenor, which may conduce thereunto out of any Court whatſoever. And thereupon an *Alias*, *Pluras*, and *Attachement* &c. So that it is not the ſuppoſed ſuperiority of any Court, muſt hinder juſtice to be done by an Inferiour, but the juſtice it ſelf, and the

e worthiness and publick concern-
ent, and necessity thereof that pre-
rreth the Judge that is just, and of a
mpetent jurisdiction in Law and
ason, to do it before him that
glects it in his place whatsoever.
s *David* before *Saul*, and the Keep-
s of the Liberty of *England* before
e Destroyers of it. Howsoever it
s otherwise conceived and practi-
d, when Privy Councellors, Judges
Star-chamber, &c. would permit
ne to be made, or continue their
llow Justices of the Peace, but
ch as wore their blue-coats upon
. *George* his day, and became their
vile fellow Perjurers all the year
ter, ready to do whatsoever they
lled by Word, Writ, or Command
hatsoever. But some suppose that
reason the Courts at *Westminster*,
lgarly called the *Higher*, have
erogatives, and Priviledges above
her Courts, whereby their Judges,
d their proceedings ought not to
e looked into by any Court of judi-
ture, commonly accounted their
feriour. This supposition is suffici-
ntly answered before, but I further
k, can any man be so mad, as to
ppose that any Court of justice

can or ought to have any prerogative, or priviledge to commit any Iniuſtice, or any Ceſſour, or Failer of juſtice in it ſelf? or to cauſe any ſuch defaults to be committed by any other Court? and that the Supreme power of *England* conſiſting in the Free-people thereof, univerſally concerned therein, can want the Prerogative and priviledge to puniſh, or cauſe to be puniſhed any ſuch Court, and the Iudges thereof, though never ſo highly reputed, but themſelves, and their creatures; and to cauſe the Laws and Statutes of *England* to be ſo conſtrued, and practiſed, that there ſhall be no Injuſtice, Ceſſour, or Failer of juſtice uſed therein? Do not the Statutes of 2. *Ed.* 3. cap. 8. and 20. *Ed.* 3. cap. 1. Sufficiently warrant, and abſolutely command that it ſhall be ſo? and is not the granting of ſuch Writs without proof of Injuſtice committed, or partiallity ſhewed by the Iudge that hath the cauſe depending before him, clearly Injuſtice, Ceſſour, and Failer of Iuſtice? and ſo fully implyed in and by the ſaid Statutes of 25 *Ed.* 3. cap. 4. 37. *Ed.* 3. cap. 18. 38. *Ed.* 3 cap. 9. *&c*?

And

And is it not wilfull Perjurie, by the Oath made for Iudges, 18. *Ed.* 3. Stat, 3? Do not ſuch Writs ſo granted, give colour of excuſe to ſome Iuſtices to whom they are directed, (if they be no wiſer than the granters) to Perjure themſelves for company in committing Injuſtice by ceſſing, or deferring to do juſtice, contrary to the ſaid Statutes, and the duty of their office by their Commiſſion? Yea, but the Iudges of thoſe higher Courts are more learned in the Laws, and therefore know how to do Iuſtice better, and ſooner than others, (and this ſeemeth to be implied in the *proviſo* ſpecified in this Commiſſion, adviſing the Iuſtices of Peace in caſes of difficulty to be adviſed by the Iudges *&c.*) and Attorneys and Bayliffs that attend them, ought to have more priviledge to be juſtified by them than others? Yea, but doth not experience tell us, that ſome of them are no more learned in Law, or otherwiſe, than other long roabed tell-clocks; and that they adviſed King CHARLES who acted nothing without them in any of his Monopolies) to become as Perjurious as themſelves, but not

equal in cumpunction to that King and Judge that contrived the Clock and Jacks at *Weſtminſter* (lately tranſformed from gowned Judges, to Souldier-like Halberteers) to mind them when it ſtrikes, to meaſure their howers by their honeſty, and that by their Oaths, *&c.* And that Indictments removed before them 20. years paſt, remain amongſt their Records, and ſo are like to continue in a perpetual diſcontinuance? And do not Scriptures tell us, that God found it neceſſary that the ſons of *Eli* ſhould have other correctours than their father, and ſo muſt the Supreme power aforeſaid, have other Chaſtiſers of Attorneys, Bayliffs, and Goalers, than the Iudges at *Weſtminſter*: or elſe it is to be feared, that God himſelf, who is the Supremeſt of all Iudges, and Power, and even Juſtice it ſelf, will proceed to judgement againſt this Nation, in this cauſe in ſuit already in his higheſt Conſiſtory, where needs no *Certiorari*, nor can be *Superſedeas* admitted, but a *Corpus cum cauſa* moſt certainly granted, to bring every Priſoner to the Bar; where, whom he onely juſtifieth by his own onely righteouſneſs,

ouſneſs, and mercy, he receiveth into his endleſs glory, and rewardeth according to their imputed merits, with a bountifull, beautifull, everlaſting inheritance; whereof, let all ſuch as ſit upon tranſitory Tribunals, endeavour (by way of Juſtice done amongſt us without ceſſation, fail, ſale, delay or denial, but mixed with mercy, ſo that *Peter* may have time to hear the Cock crow) to be happy partakers: Or elſe roul Juſtice, roul through the Laws Subverſion to thine own Confuſion, with a garland of Deluſion; and mercy be unto them that deſire to practiſe it, AMEN.

FINIS.

Poſt-ſcript.

WOuld it not be an acceptable ſervice to God, if the *Juſtices* of *Peace* of the Countie of *Middleſex* would call a ſpeedie Seſſions, and therein inquire, hear, and determine according to the Law of God and *Magn. Charta*, &c. and this Commiſſion, (theirs being the like) who are moſt guiltie of the Gentlemans bloud that was moſt wilfully murthered, by the ſix Catch-pols, near the *Ducking-ponds* in *Iſlington* Fields, on the ſixth of *April*, 1650. Whether the

the Judges that granted a Writ to Arreſt for Debt? or the Murtherers that executed it with ſuch barbarous butcherie? or the perjured Jurie that ſaved them contrarie to two Verdicts? or the Judges that ſo adviſed them, contrarie to all Law, but ſuch a bloudie one as their Predeceſſours lately contrived, to juſtifie ſuch actions.

Can it be any difficultie for *Juſtices* of *Peace*, to find Law enough, both Divine and humane, to hang all the ſaid Actors? ſhall any Judge of either *Bench*, *&c.* be thought fit or indifferent to adviſe in this matter?

FINIS.

THE NEW
Returna Brevium,
Or the *LAW* returned from
WESTMINSTER

And reſtored in brief to its Native Antient, and Proper Habitation, Language Power, Puritie, Integritie, Cheapneſs Briefeneſs, Plainneſs.

Reſcued out of the Sacrilegious hands barbarous diſguiſes, ænigmatical intricacies lucrative conſtructions, extorted verdicts, falſ Judgments, & bribeful Executions of her perjured Impoſtors, falſ Interpreters, Iailers, Catchpols, Attorneys, &c

Whereunto is added the Petition of Right, granted by Parliament in the 3 year of King *Charls* and confirmed by this (Although to bee found in larger Volumes) for cheapneſs to the Generalitie to inform themſelvs what is their Rights.

Written by *John Jones* of the *Neyath* *in Com. Brecon* Gent.

Micha. 6. v. 8.

He hath ſhewed thee O Man, what is good. And what doth the Lord require of thee, but to do juſtly, and to love mercy, and to walk humbly with thy God.

LONDON, Printed by *William Du-gard*
Anno Dom. 1650.

TO
The right Honorable
Oliver Crumwell
LORD Lievtenant of
IRELAND
&c.

Heroïck Sir!

LOng and earneſt have been the deſires, and praiers of many thouſands of faithfull hearts for your ſafe and happie return

into *England*, which God for his own glorie, your honor, and our comforts, hath now opportunely brought to paſs with ſuch teſtimonies of his bleſsings upon your actions, manifeſted by your ſucceſſes in his battails, as may beejuſtly terrible to all his, and your Enemies; and truly joyfull to all his ſervants, and your friends; of whom it is to be feared, that as

God

God hath but few firm in his election, ſo you have but few faithful in your aſſiſtance. Be pleaſed therefore that it may bee inquired in the Aſſembly, vvhoſe promiſes to your ſelf, and your dependants, vvhoſe Votes in publick, and Vovves in private have moſt vvilfully failed you and yours: I ſhall not preſume to inquire vvhat breaches have bin made of performances in mat-

ters moſt nearly concerning you, and your Armie beſt knovvn to your ſelf: but vvhat hath been performed of thoſe promiſes made to you, and your Armie for the relieving of your daily Oppreſſors, Priſoners for Debt, vvrongfully reſtreined, contrary to *Magna Charta*, and all the true Lavvs of the Land, vvhich men ſitting in Parliament publickly profeſs, and have often

ſvvorn

ſvvorn to maintein: what ridiculous Acts even thoſe men have made to delude you and your Orators, their own and all Gods people, to croſs thoſe Laws more then before, and to ſupport their extortions, & mercenarie practices in all the waies of Injuſtice, in an higher meaſure than their Predeceſſors: what Juſtice can be expected from ſuch Juſticers? what merci

can bee exſpected from God to continue upon that Land that ſhall ſuffer ſuch Mountibanck-mock-lawes to live, much more to ſit, and bee *Legis-lators* amongſt them? oh! let ſuch buyers & ſellers of *Law* & Juſtice bee thrown out of the Temple, and the Houſ of the Lord bee purged of ſuch abominations. The valiant and Religious Patriot Colonel *Pride* (in your abſence

abſence) indeavoured to work ſom proportion of grace into thoſe men, to foreſee and prevent their own confuſion; but the Adders would not hear: O make them (Sir!) make theſe ſubtile Serpents innocent againſt their wills; unſting them, unskin them; for their Caſes are far more precious then their Carkaſes. I have here following demonſtrated their uſeleſſneſs

in

in this Common-wealth? which may it pleas your honor to peruse at your leisure, protect in your favor, correct in your wis-dom, and Act in your Justice; so God shall fur-ther prosper you & your posteritie, the Common-wealth honor you and them, and with the rest of your Orators, and theirs, I shall bee ever yours to Command du-ring life,

John Jones.

THE NEW *Returna Brevium*; OR The *Law* returned from *WESTMINSTER* &c.

DIvers are the Speeches of divers Contrivers of a pretended *Reformation* of *the Law of England*, according to the diversitie of their opinions, and self-ends premised therein; for the effecting whereof, they would have their several Propositions disputed; som for Alterations, others for

for Additions, others for Subſtractions; all for Corrections; but few or none knowing how to mend *Magna Chart.* more then *Magnificat*; nor really ſtudying, but how to marr both. Obſerv how the work directeth it ſelf how it would bee don: For as ſaith the *Mirrour of Juſtice* written by *Horn* in King *Ed.* the 1. his time *pa.* 8. It was *ordeined*(viz. by King *Alphred* long before *Mag. Chart.* or the Norman Conqueſt) that **Right ſhould be don from 15 dayes to 15 dayes, before the King and his Judges: and from moneth to moneth in the Counties (if their largeneſs required not a longer time:) And that every three weeks, right ſhould bee adminiſtred in other Courts.** And **every free Te-**

nant

nant had ordinary Jurisdiction, &c. And before *pa.* 1. The Sheriffs and Bayliffs caused the Free Tenants of their Baily-wicks to meet at the Counties and hundreds, at which Justice was so don, that every one so judged his Neighbor, by such judgement as a man could not elsewhere receiv in the like cases, until such time as the Customs of the Realm were put in writing, and certainly established. And although a Free-man commonly was not to serv without his assent; neverthe-less it was assented unto, that Free Tenants should meet together in the Counties, Hundreds, and Lord's Courts (if they were not specially exempted to do such Suits,) and there they judged their

their Neighbors. And again *pa.*8. It was *ordeined, That every Plaintiff have a remedial Writ from the King* (who reserved all Pleas of the Crown, and above 40s to himself) *to his Sheriff in this form.*

Queſtus eſt nobis &c. viz. *Complaineth to us* A. *that* B *doth him ſuch and ſuch wrong, Wee therefore committing to thee our Turn in this behalf, command thee to hear and determine that cauſ.* Their Jurors were Iudges: And why do Judges now at *Weſtminſter* (that can bee no more abſolute Judges by their Commiſſions, then Recorders of Cities by their Charters, Sheriffs in Counties and Stewards in liberties were by their Writs, at this time when Free Engliſh men underſtood their laws then known and

and practiſed in Engliſh) uſurp more then thoſe Judges did, or theſe ought? viz. to bee more then onely pronouncers of the ſubſtance of Jurors verdicts aſwell for Law as Fact; which pronunciation is and ought to be but as a Declaration of Kings aſſents to the due execution of that Law, which they and their people agreed upon in the great Charter. and its confirmation; to let the people know by theſe Judges, that then were, and ſtill are, and ought to bee called the Kings or the States, as authoriſed by their Writs and Commiſſions to pronounce their Maſters conſents for their parts to convict the partie guiltie as the Judges of the people (viz. the Jurors do by their verdicts, which are

or

or ought to bee their true ſayings both for Law and fact for the peopl'es part & their own; which conſents of Kings or States now called *Judgements* (becauſe a ful conviction of the guiltie of both parts) if denied or delayed after verdicts, to bee pronounced there accordingly, by the Judges called the Kings or States. A Writ to command them to proceed to Judgement, and an *aliàs plur* and Attachment ought to bee granted by the *Chancery*-States, as you ſhall finde in *Fitz. nat. br. fo.* 143. to impriſon them till they do it, which is not uſually don by themſelvs in every cauſ in Court, but by the protonotarie of courſ entred upon Record, unleſs reſpite bee required upon good cauſ ſhewed

ed. And the execution vvhich ever iſſueth in the name of King or State relateth to the Judgment, Conviction, vvhich implyeth both the Judgements of Kings or States and people as aforeſaid.

Would not therefore the common practice of the Lavvs and their pleadings in Engliſh as at firſt they vvere bee more commodious and uſefull to inſtruct all underſtanding Engliſh men for their ovvn good to becom experimental ſufficient Lavvyers in their ovvn cauſes, then the modern cuſtom of hotch potch French and Latine impoſed by Lavvyers for their ovvn gain to inſtruct fevv others of their ovvn generation, to cheat the univerſalitie of the Nation of their rights and underſtandings

derſtandings, and make themſelvs, and their Counſels moſt learned in others affairs.

And again, *That every one have a Remedial Writ from the Kings Chancery according to his plaint, without difficultie, and that every one have proceſs from the day of this plaint, without the Seal of Judg or partie.* And again pa. 10. *That after a plaint of wrong bee ſued that no other have Juriſdiction in the ſame Cauſ before the firſt plaint bee determined &c.* And again *that al the King's Courts ſhould bee open to all plaints, by which they had original Writs without delay aſwel againſt the King or the Queen, as againſt any other of the People, for every Injurie, but in caſe of life, where the plaint held without Writ:* Why all at *Weſtminſter*

ſter ſit not betvveen terms? And all elſvvhere all the year long? *Certiorari's*, *Corpus cum cauſa*, *ſupperſedias*, *&c* iſſued thence, till the Judges at *Weſtminſter* can bee there at leiſure to determine all matters, vvhich the multiplicitie of rich mens cauſes ſo monopolized thither cannot afford the poor to end theirs vvhile they live commonly.

And again page 11. *That all Free Tennants ſhall bee obedient, and appear at the ſummons of the Lord of the Fee*; And if a man cauſed another to be ſummoned, elſwhere then in Fees of the Avowants, or oftner then from Court to Court, they were not to obey ſuch Summons. Why then ſhould any Free-holder of the Countie of *Middleſex*, or any libertie thereof

thereof (except *Weſtminſter*, and St *Martins le grand London*) appear upon Summons at *Weſtminſter-Hall*, vvhich lately vvas the Fee of the Dean and Chapter of St *Peters*, and novv is at the States diſpoſe, to vvhom they pleaſ.

And again page 12. *That the Lords of Fees might ſummon their Tenants by the Award of their Peers, to the Lord's Court, or the County, or the Hundred, at all times that they detein, or denie their ſervices in deed or word; and there they ſhall bee acquitted, or forfeit their allegiance and all their Tenancie with the appurtenances, by the judgement of the Suitors. And* per contra, *the Lords doing wrong to their Tenants, ſhall forfeit their Fee to the Chief Lord, by the ſame judgement.* Obſerv the Free-

men

men of every libertie then were, as ſtill they ought to bee Judges of their Lords for their fees, aſwel as their other neighbors for their tenancies, and to end their differences there within their proper Fees reſpectively; and why not ſo ſtill? And ſo let the chief Officers, Juſtices of Peace, and others of the Libertie of *Weſtminſter* ſuffice for Judges for that precinct.

And page 13. *That offendors guilty of death ſhould not be ſuffered to remain among the guiltleſs.* Why Convicts for felonies, &c. in *Newgate* &c. amongſt priſoners for debt?

And *that the Goods and Chattells of Vſurers ſhould Eſcheat to the Lord of the Fee.* This law reſtored, would enrich the Common-wealth, purge it of manie

many moths & Cankerworms, and teach men to live by their own labors, and not by others.

And pa. 14. That *none ſhould bee ordeined Miniſters above the numbe of Churches; and that the poor ſhould be ſuſteined by Parſons, Rectors, and Pariſhioners, ſo that none ſhould die for want.* How many die ſo daily now adaies within every pariſh and parſons view? So much and more affirmed by Maſter *Horn* to bee the Common unwritten Lawes and Cuſtoms of *England* before *Magna Charta*; the Lord *Coke* in his preamble to his Inſtitutions upon it, ſaith, It is but a written Charter, or Declaration in writing of the antient laws of this Land, agreed upon by King and People to bee publiſhed, and preſerved inviolable

lable on both parts for ever, and no new law made. Hereby further appeareth what hath been ſaid of the agreement between King and People, that none ſhould be judged by the Kings Judges but by verdict of their Peers, called in this Charter due proceſs of Law. In and by the 9th Chap. of which Charter, it is declared, That the City of *London* ſhall have the old Liberties and Cuſtoms which it hath uſed to have; Moreover wee will, and grant that all other Cities, Burroughs, Towns, and the Barons of the 5 Ports, and all other Ports ſhall have their Liberties, and free Cuſtoms. Are not all theſe Liberties and Cuſtoms grown obſolete, and daily over-ruled at *Weſtminſter*?

And in the firſt confirmation of the ſaid Charter 25. *Ed.* 3. *ca.* 2. It is further declared, That all Iuſtices, Sheriffs, Majors, and other Miniſters having the Law to guid them, (viz. *Mag. Chart. Foreſt*, then written and publiſhed) ſhall allow the ſaid Charter to be pleaded before them in Judgement: and *cap.* 2. That if any judgement ſhall bee given henceforth contrarie to the points of the great Charter, it ſhall be undon: where upon (ſaith the Lord *Coke*) the Laws of the Realm have the office to guid the Judges in all cauſes that com before them, in the wayes of right Juſtice, which never yet miſguided any that certainly knew them, and truſy followed them.

By theſe Collections of Mr. *Horn*

Horn before *Magna Charta*, and Confeſſions of the Lord *Coke* ſince, ſufficiently appeareth That the Laws (if publiſhed to the people as they ought) would bee ſufficient to guid them all, in all the right wayes of Juſtice. But the Juſtices at *Weſtminſter* that would guid the Laws, as Popes Scriptures, by their own Interpretations, having purpoſely diſguiſed them in Pedlers French, and barbarous Latine, that few but themſelvs can conſtrue; and forms ſo errorable as they can deviſe for themſelves to mend when they liſt; which hapneth ſomtimes for the rich, but rare or never for the poor; and thereby denying, delaying, and ſelling Juſtice at their own rates; And their Frye, ſitting

in the houſ, are the ſubverters of the Laws, as their Predeceſſors alwaies were, and thereby the continual cauſers of all the Civil Wars of *England*; and beſides all that, (under color of Juſtice) murtherers of more Engliſh men then all the Wars, Plagues, and Famine, vvhich reigned in their times, deſtroyed vvithout them: Witneſs their Statutes made and mainteined againſt *Magna Charta*, for their murthering of Debtors in Priſons, vvith tortures and famine, vvhen their extortions and their Gaolers have left them no means to buy bread: And for the unlavvfull divorcing, ſcattering, and ſtarving of their Wives and Children by the bargain, and rob-

robbing their Creditors of thoſe means that ſhould pay their Debts in part, or all; and for protecting of Cheators, that take their Priſons for Sanctuaries, to leav ſo much of other mens eſtates with the right owners curſ and their heirs, to their poſteritie, as their Judges and Gaolers extortions and their own riot cannot conſume in their owne time; As alſo their laſt Acts formerly mentioned for releaſ of Priſoners, which intangle their bodies and ſouls more then before; And many other Statutes to intricate the Laws with ſuch contrarieties, as none but ſuch as have the Genius of their makers can reconcile: which when it is don, tendeth wholly to make themſelvs

great and rich, and the People their ſlaves and beggers.

For Remedie whereof, it is to be deſired in the name and right of the publick, that the Houſ would bee pleaſed to bee ſwept and clenſed of ſuch cobs, and cob-webs, and to vote and vomit out of the ſanctified bowells of that ſacred Senate thoſe execrable excrements that poiſon their intrailes, and deliver them to publick Juſtice, which their ravenous lives, and extorted poſſeſſions ſuffice not to ſatisfie; but may in Gods mercie appeaſ his wrath, ſtay his Judgement, and expiate this Land of that wickedneſs which they have wrought among us, and accumulated upon us.

This don, The work followeth, and teacheth it ſelf how

how it would be don as aforeſaid; declaring it ſelf that *fruſtrà fit per plura, quod fieri poteſt per pauciora*: vain is the labor of many workmen, where few may ſerv the Turn with far leſs charge, and more conveniencie. And breifflie, vain, expenceful and too burthenſom to this Common-wealth are the ſeverall Courts hereafter mentioned, upſtarted over us, one after another, ſince the firſt publiſhing of *Magna Charta*, as Hereſies ſprung immediately after, if not with the firſt preaching of the Goſpel: *viz.* Out of the Court lately called the *King's Bench*, iſſued the *Common-Pleas*, and the *Eſchequer*, which took their leav of it in *Magna Charta*, and left it to follow the King; and ſo I conceiv it

ought to do ſtill, for that there is no uſe rightly to bee made of it, but to hear and determine the Pleas of the Crown, which the Lord *Coke* upon *Magna Charta* ſaith were wont to bee determined by Stewards in their Leets, Sheriffs in their Turns, Recorders in Corporations, and countrey Judges in Signiories, which had *jura Regalia*; all which now, Juſtices of Peace having more power in matters determinable by common Law, then Juſtices in Eire had (if rid of the ſovereigntie uſurped over them by their fellow-Juſtices, their *Certioraries*, *&c.*) may eaſe of much labor. Moreover, the chief Juſtice of this Court ought to bee but the King's deputie by writ; and no King in beeing,

beeing, no ſuch Deputie can bee. *Hugh de Burgo* Earl of *Kent*, chief Juſtice under King *Henry* the 3d took his oath with his Maſter, to obſerv and maintein *Magna Charta*, and ſoon after perſuading the King to break it, became the firſt Perjurer of his place in that point; as the Lord *Cook* upon *Art. ſup. Chart.* declareth at large. Since which time, the practice of this Court, beeing but to murther debtors over whom it hath no juriſdiction, and conſequently perjurie and injurie to the Common-wealth; why may it not bee ſpared as well as the King? While (as ſaith the Lord *Cook* afore-ſaid) all Majors, &c. have the Law to guide them, and now Engliſhed unto them, where then can bee

the defect of Juſtice, but in the Juſtices (as before) that will not execute them? ſince it is Law it ſelf that the Laws are to bee interpreted ſo, that there ſhall bee no failer of Juſtice to the people. And few or no Laws beſides *Magna Charta*, and it's confirmations, will ſerv to do that without thoſe ſuperfluous number of volumes which Lawyers have contrived for their own *Reports of Caſes*, and craftie diſputes, arguments, and cavils paſs'd among them; but to bee uſed by ſuch as have minde and leiſure to read them, as Divines may the Works of the wantoneſt Poëts, to pick out their flowers for their Pulpits, and leav their ſcurrilities to others of their Autor's *genius*. Or as Interludes,

in

in which all parts were not all bad, and though all prohibited to bee publickly acted, yet may *Terence* bee read in Schools.

And may not thoſe Statutes that relate to the *Juſtices* of either Bench, &c. bee executed without them, aſwel as thoſe that relate to the Biſhops, are without them? And this Court thus ſpared, will ſpare the Common-wealth in fees and extortion above five hundred thouſand pound *per Annum*, beſides unknown bribes, and their known ſalarie of 4000li. *per Annum*, as Sir *John Lenthal* and his 4000 priſoners or thereabouts, between *Thule* and *Callicute*; and Mr *Henley* with his hoſte of Scribes, whoſe Van is at *Michael's mount*, and Rear at *Barwick*, (if convented, and

and compell'd to confeſs truth) can declare at large.

The *Chancerie* was no Court of Judicature, nor perſonated by a Lawyer, but commonly by a Monk, or Biſhop, (as we have ſeen lately in *England* and *Ireland*) whoſe office was to follow the King with the Seal, and to ſeal Writs *gratis* at the King's coſt, as the Lord *Cole* affirmeth, and *Raſt. fol.* 65. citeth the Statute of *Art. ſuper chart.* and ſheweth that the breaches of thoſe Articles were the firſt thing given to the power of the Chancellor to judg of (who beeing likely a a Biſhop, had charge as a Biſhop by virtue thereof, to excommunicate the breakers thereof:) In the 36th year of the reign of King *Edward* firſt, *cap.* 4to from which.

which little fountain ſprung that *Nilus* that ever ſince overfloweth all *England*, not onely once every ſeven years, but ſeven times at leaſt in every year. The *Chancerie* (a *Court of Conſcience* forſooth) raiſed upon pretence of equitie, and reliet to ſuch as complained of oppreſſions againſt the breakers of this Statute, which vvas the firſt confirmation of *Magna Charta*; and no ſooner thus raiſed, but it deſpiſed both its raiſer, and the cauſe, extolled it ſelf, and over-topped all the Courts of *England*; diſuſing to grant the antient Commiſſions in *Eire* to vvhom their Counties choſe; and of *Oyer* and *Terminer* to any that had occaſion to uſe them, as lavvful vvas according to *Fitz Herbert*

Nat.

Nat. brev. fo. 112. and *Cromp. Jp. fol.* 51. and all Writs to any without excessive fees, and extortion, contrarie to all Laws, the Oath of a Judg, and the practice of the office it self, as it was formerly *gratis*: and neglecting to send *Magn Char.* to every Sheriff yearly, to bee read four times in full Counties, and to every Church to bee read twice yearlie: And the writ set down by the Lord *Cook* to bee issuable to all Sheriffs to apprehend all subverters of the Law, and to commit them to the common Gaol; which I confess is politickly forborn, least *Chancellors* and andthe rest of their brother *Judges* should bee taken for the chiefest delinquents in that kinde, and carried from *Westminster*

inſter to *Newgate* as (I dare
wear) they have often deſerv'd:
ut when I conſider how ready
eir *ſuperſedeaſe's* are to She-
ffs, Juſtices of Peace, &c. when
ey pleaſ, and their *Injunctions*
ſtay Suits at common Law,
moſt proper to bee determined
here) and the diſregard they
ake of the late *Statute* of 15to
len. 6. 4to which forbiddeth
em ſuch matters, I confeſs
o need they have to fear She-
ffs to diſpleaſ them; but mar-
eil how they can bee ſo uncha-
itable, as to ſeparate mercie
which they call equitie, from
uſtice, beeing that as *Juſtice*
ithout equitie is mercileſs rigor,
Equitie without Juſtice (if any
uch could bee) would bee an
njuſt iniquitie, and both theſe
notwithſtanding they would
ſeem

seem to divide Equitie from Justice) are found individuals in Chancerie, as Equitie and Justice were in Courts of common Law, before Chancerie was; and so ought to bee still, as Mercie and Justice ever were and will bee in the individual *trinumine* chief Justice of heaven and earth, whose mercie is above all his works; but *Chancellor's* works are commonly above all mercie, when they can finde no time, nor means to end any Cause, till both parties finde the end of their money, and their time lost to gain Lordships to Chancellors and their Heirs, for who saw a Lord Chancellor but had a Lord *Baron* at least to his heir, except Sr *Francis Bacon:* and who saw gainer to himself, or his heir

by

y a Suit in Chancerie, except
t might bee *John Johns* the
unning Merchant, or one that
ad leſs right to land then Kec-
er *Coventrie* could think fit to
urchaſe in his man's name, and
et gained a precious decree a-
ainſt the right owner. Where-
ore this two door'd ordouble-
eav'd Court of Chancerie
nd Rolls, beeing moſt perni-
ious to this Common-wealth,
vhich generally beggereth to en-
ich it ſelf by encroaching upon
ll mens liberties, and drawing
ll thoſe matters to *Weſtminſter*
vhich might bee decided at
ome, with far more ſpeed, ju-
ice, equitie, and conveniencie;
nd leſs charge, pains and at-
endance to both parties, where
hey are beſt known, or to bee
known

known in their own Court. Let this Court bee ſpared, with the other, and the Commonwealth will bee further ſpared of the treble charge of the former yearly, as the Warden of the *Fleet* and his priſoners, (as numerous as the *Kings-bench* men) and the numberleſs *Armado* of Chancerie Caterpillars can ſufficiently witneſs, if they pleaſ: whereof one thouſand pounds *per annum* would bee a competent ſalarie for a Keeper of the Seal, and fiftie pounds *per annum* for his man to attend it: And another thouſand pounds *per annum* to ten Clerks to do the office of ſix, (antiently blew bonnets, two thouſand pound *per ann.* a piece or more) with allowance of Parchment, ink, wax, candles, firing, lodging,

ing, and a fit office to write all neceſſarie Writs for all the Common-wealth. And the *Clerkſhips* of the *Crown* and *Hanaper* may bee united in one perſon, (as in *Ireland* they were in Mr *Edgworth*, and ſince in Mr *Carleton*) who may bee thought worthie of five hundred pound *per annum*, and all accommodation for his office, without anie fees; and fortie pound *per annum* a piece for three under Clerks to aſſiſt him to diſpatch all buſineſſes belonging to either of the ſaid offices without fees likewiſe.

The Court of *Common pleas* at *Weſtminſter* would bee as wel ſpared as anie, for that all Common-pleas are common to all Courts in Cities, and Counties, and ought to bee tried there,

there, (as the Lord *Co.* upon *Magn. Char.* on the Countie Court confeſſeth) which ſparing, would ſpare the Common wealth *per annum* no leſs then the greateſt of the former two.

The Court of *Exchequor* reduced to it's proper juriſdiction, officers, and fees, concerning the publick Revenues, may bee continued for that ſervice onely, and ſuffice to maintein the Warden of the *Fleet*, and ſom of his men, to walk between the Fleet and the Court, to guard Chequer-Accomptants to their *Quietus*, and this would ſpare the Kingdom another Ten thouſand pound *per an.* as the Wardens of the *Fleet*, the two Remembrancers, and M*r. Long* can tell.

Courts

Courts and Juſtices of *Aſſizes*, *Niſi prius* and Gaole-deliveries, are as neceſſarie for *England*, as *Landlopers* for the *Netherlands*, where the Boars ſaw their backs, and their dogs bite their ſhins for their intruſions: or as *droans* are to *Bee-hives*, whence the Bees have good cauſe to chace them, for devouring their honey For all matters of Aſſizes and *Niſi prius* belong to Countie Courts, Hundred-Courts, Courts Baron, and Corporation Courts (as the Lord *Coke* confeſſeth as aforeſaid) and *Cromp.* affirmeth in his juriſdiction of Courts, *fo.* 240.) and matters of Gaole-deliverie belong to Sheriffs turns, Leets, and Seſſions of the peace, as the ſaid Autors affirm, and the

the Commiſſions of the peace and Charters of Corporations can prove and warrant. Wherefore thoſe three Courts ſpared (as well they may and ought) the Common wealth will be further ſpared of two annual Viſitations of ſeverall ſwarms of *Weſtminſter* locuſts, the charge whereof I refer to the conſideration of them that bear it and uſually pay it.

The Court of the *Marſhalſey* raiſed to that exorbitancie that King *James* and King *Charls* did, may and ought to follow their fortunes, and their houſholds; and more I ſhall not ſay of it, but that it is full of extortion and injuſtice, being never owned by Law beyond the verge, and that being vaniſhed with the Kings perſon;

ſo

ſo ought that Court. The ſparing of this Court would ſpare the Commonwealth a great deal of charge more then I can calculate; but Mr. *Say* an honorable Member of the Houſe may advertiſe the reſt thereof, with the advice of Mr Serjeant *Green*, and others late Judges and officers of that Court.

The ſparing of all theſe Courts, and the charge thereof amounting to, if not ſurmounting three millions *per annum*; and the confirmation of *Mag. Cart.* and the *Petition of Right*, once more by this Parliament, would alſo ſpare to the Commonwealth, and its better ſervice, the lives and imployments of many thouſands of able men wrongfully im-

impriſoned for debt, and con-vert the lives and imployments many thouſands of Attornies, Sollicitors, Gaolers, Catch-pols, Decoyes, Setters, &c. to better uſes both for their ſouls and bodies, and for the pub-lick benefit. Then Sheriffes Turns, Hundred Courts, Leets, Court Baron, Seſſions of peace, and Corporation-Courts, reſtored to their ancient and right juriſdiction, which fall to them of themſelvs, which when thoſe aforeſaid are taken away, would be all-ſufficient, and onely neceſſary to hear and determine all the cauſſes of *England*, reſerving Appeals to ſuch as ſhall have cauſ, to Parliament or Commiſſioners of Oyer and Terminer to bee aſſigned, as *Fitz H.* and *Cromp.* affirm anciently lawful, and uſual

uſual, proof being made firſt of the partialitie, or injuſtice of the proper Court, and no bare accuſation, allegation, or preſumption to ſerv for the iſſuing of ſuch Commiſſions as now is uſed. Except cauſes proper for Coroners, Eſcheators, Pipe powder Courts, & Clerks of the Market; of whoſe miſdemeanors, Juſtices of Peace have power to hear & determine, but not to hinder in due execution of their Offices, which are all neceſsarie in their kinds in every Countie, and ſpecially Coroners and Clerks of the Market the firſt for diſcovering of murthers, &c. whereof God requireth an exact account, (as Scriptures and Reynolds Hiſtory ſufficiently witneſs. And the other for the puniſhing of

frauds in weights and measures, which *Solomon* saith are abominations to God; yet nothing more common amongst us, the more fearfull his judgements upon us without timelie repentance and future amendment. And for the superintending of the defaults of those that have power to correct such offences, and do not.

All these *Courts Officers* and *Offices* that are thus necessarie will bee no more chargable to the Common-wealth hereafter, then alwaies they have been hrretofore, but as useful now as ever; and more profitable to the Common-wealth now, then ever before, becaus that in this time of Reformation, these Officers, as others, beeing chosen of approved persons for their

their Integritie, will endeavour (like their Superiours) the amendment of all offences, which they have power to chaſtize ; whereas their Predeceſsors (imitating their Superiors) to their own ruine, intended their own private gain by publick tranſgreſſions, and to that end increaſed iniquities in themſelvs, and others.

If any offer to plead, or object the cuſtoms and uſages modernly obſerved time out of minde, againſt this reducement, and reſtauration of the *Law*, and its practice, to their antient uſages ; I anſvver, *Mala Conſuetudo non eſt obſervanda:* An evil cuſtom is not to bee continued ; and Cuſtoms againſt Lavv are unlavvfull to be uſed : And to vvhat end is Reforma-

tion, but to take avvay ſuch cuſtoms? And Statutes lately made to ſupport them, by thoſe that raiſed and uſed them, for their own gain & others dammage? contrarie to all the Laws of God and Man, and eſpecially of *Magna Charta*, and its confirmations, vvherein appear the right and Primitive cuſtoms and uſage of this land, agreeable to them, claiming therefore to bee reſtored, as in Juſtice they ought, and the other to bee aboliſhed, as likevviſe they ought.

And being com to ſpeak of antient Cuſtomes to bee reſtored, & modern to bee aboliſhed, I cannot chuſe but remember the *Poor*, (as moſt men do) in the laſt place: for it vvas a cuſtom as antient as Chriſtianitie,

anitie, for Chriſtians to give lands, moneys, and goods in a large meaſure to relieve the poor, till Monks, Friers, and other Abbey-lubbers (as unſatiable, as idle) dulled mens charities with their continual beggings in the name of the poor, and grew ſacrilegious, robb'd ſpittles, made that which was common to the poor, as well as themſelvs, proper to themſelvs, and gave out of that which was none of their own, for aſſiſtance to countenance that Sacriledge, the firſt Fruits, Tenths, &c to the *Pope*, who had as much right thereunto by their gift, as the Devil; and conſequently King *Henry* the 8th. as much as the *Pope*, and his ſucceſſors (whether Kings or States) as much

as hee. Whosoever conceive's I write too boldly, or speak too plainly herein, let him read (not onely Histories forraign and domestick, but) the Records and Statutes, extant and in force amongst us, *videlicet*, That of *Carlile* de *Asportatis Religiosorum* 35to. *Ed.* 1. And that de *terris Templariorum* 17°. *Ed.* 2 And those of the dissolutions of *Henr.* the 8th. between which first & last hee may finde manie more to inform his conscience, so that his heart may think, his tongue speak, and pen write much more then I do in this matter: All that I desire is, that the poor may be looked upon, if not with an eie of pitie, yet with an eie of wisdom, taking notice that if the wedg of *Achan* bee not enquired for, discovered,

covered, and recovered, the Nation may rue it: And that *Popes*, *Kings*, *Bishops*, &c. that cared not how lean they made the poor, while they might make themselvs fat with their provisions; and those that exspected their reversions, have caus by this time to bee sensible of their Sacriledg.

And that therefore the Spirit of Reformation would bee manifested in the works of Charitie; and if such as have griped the patrimonie of the Church into their claws, can finde in their hearts to restore to the poor no part of that *interest* which all the said Statutes and manie more, and all the writings of the Fathers, and manie of our own modern Bishops (who unjustly detained

all they could from them) abundantly confeſs and teſtifie they ought to have in all Eccleſiaſtical poſſeſſions, not as the Alms of the Incumbents, but as their own rights by the expreſs wills and donations of of the Primitive Founders of Churches, Hoſpitals &c. and other devout Donors, and Benefactors to ſuch places, from time to time ſo exceſſively bountiful to the Clergie and Corporations for the poors ſake, that the Statutes of Mortmain were made to reſtrain them.

All which notwithſtanding the Clergie poſſeſſed no leſs then a third part of *England* and *France* (as Sir *Walter Rawleigh* and Sir *Nathanael Brent* have written) but not to their

their own uſes (as they wickedly converted it) but as Adminiſtrators to and for the poor, as the ſame Autors, all the Fathers, and *Littletons* Tenures *de frank Almonie*, and *Tenant* in common ſufficiently witneſs. Yet may the Parliament bee pleaſed that Commiſſions for charitable uſes bee granted to diſcreet perſons throughout *England* and *Wales*, not without Fees, wages, and accommodations for themſelves and their Officers, competent for their attendance in that ſervice, and loſs of time in their own affairs, being Charitie beginneth at home, and no man can or ought to neglect his own charge to follow others profit *gratis*, which maketh the Commiſſion now

in *London* and elſwhere ill executed, as the diſtreſſed of *Ireland* by wofull experience can lamentably verifie. Nor let the number for a Court exceed 3, for the eaſ of the charge, which muſt bee either charitably allowed and paid by the State, or deducted (as the late Lord Privie Seal in the book of order approved by the Councell Table 6to *Car.* and the Additional Act for the Sabbath, &c. declare to be lawfull for proſecutors) out of the poor's right. Nor let ſuch Commiſſions be limitted by the Statute of 43 *Eliz.* 4. as now it is, which Statute appeareth by its exceptions and juriſdictions re ſerved to Biſhops and Chancellors to bee a Prelatical Chancerized confederacie to delude

lude and defraud the poor at their pleaſures; witneſs the heaps of loſt labored decrees made thereupon, remaining unexecuted in the Petty-bag Office. And *Philip Thomas* his experiment in the carriage of many thereof in *Abbots*, *Lauds*, *Coventries* and *Littletons* reigns; which hee may declare the freer ſince the death of thoſe Lions. Nor let the Clerk of the Crown for ſuch damnable Fees, and extortion of 50*s* or more, as is now uſed for a Commiſſion for every County, be allowed, but as it is uſed for Commiſſions of the peace, which if don *gratis*, would bee more charitably don for the poor, then for Juſtices; and hee may ſhorten his labor by making one Commiſſion for

for ſeverall Counties for charitable uſes, which he may not do for the peace for divers reaſons. Nor let ſuch Commiſſioners want power in their Commiſſion to put their Orders, Judgements, and Decrees in execution (as all other *Oyers* and *Terminers* have) without relation to any other Court then Parliament for any alteration whatſoever. Nor power to puniſh vagrants, &c. and ſet ſuch as are able, to work.

This granted, the poor of *England*, which to the ſhame thereof, beyond all other Countries Chriſtian or Heathen daily periſh in ſtreets, fields and ditches, defrauded of larger proviſions made for them by Lawes and Legacies, then any

other

other Nation can parralel, and deluded like *Tantalus* for his apple, may by this meãs be inabled to catch into their emptie, vain, gaping, begging mouths, and hungrie panches, ſome crums of ſome Alms-houſes, to prolong their daies, to direct their praiers for their benefactors, to aſcend like ſweet incenſe to the Lord, in ſtead of the unſavourineſs of their putrified members, to annoy their oppreſsors and offend others; And ſuch as are able to work, may bee imploied for benefit to themſelvs and others, and ſo the ſtreets and fields bee cleared of thoſe loathſom ſights and importunate clamors which Forrainers admire, and Domeſticks abhor, yet neither help: All which I humbly ſubmit to all honorable,

rable, charitable, and religious considerations, which God guide for his own Glorie, and their own good, *Amen*.

The

HEar I am charged with uſing other heads then mine own in theſe my poor labors. Truly I cite my Autors as the onely heads I dare truſt to defend mee and mine from the hands of their degenerate ſucceſſors, and ſuch others as (regarding their ill-gotten wealth more then their ſouls) malign my endeavours in ſeeking to reſtore thoſe ſprings that flow from my ſaid Autors (the pure heads thereof) to their proper Chanels, and diſmay ſuch heads and hearts as might and would give mee helps, or write better themſelvs; ſo that all the helps I can get of them, is but to tell mee, that they would not write

ſo

rable, charitable, and religious considerations, which God guide for his own Glorie, and their own good, *Amen*.

The

HEar I am charged with uſing other heads then mine own in theſe my poor labors. Truly I cite my Autors as the onely heads I dare truſt to defend mee and mine from the hands of their degenerate ſucceſſors, and ſuch others as (regarding their ill-gotten wealth more then their ſouls) malign my endeavours in ſeeking to reſtore thoſe ſprings that flow from my ſaid Autors (the pure heads thereof) to their proper Chanels, and diſmay ſuch heads and hearts as might and would give mee helps, or write better themſelvs; ſo that all the helps I can get of them, is but to tell mee, that they would not write

ſo

so plain as I do in this matter for thousands of pounds.

Whereto I answer, they have so much to lose, and I but my life and labor, which for truth, and its plainness, I am ready to sacrifice to Gods providence, which I finde not careless of my protection, having raised mee honorable friends without any merit or exspectation of mine, but onely of their own worthiness, amongst whom the Right nobly-minded, as well as descended Gentleman William Steward *of* Laken Heath *in the County of* Suff. *Esq; affecteth mee for my affection in particular to himself, in general to al, heartneth mee more then many to proceed in my work,*

not

not for its workmanſhip, but its meaning, not for its plauſibility at preſent, but its poſsibility in future, not for its dictaſte to angel-tong'd Lawyers, corrupt-lung'd Gaolers, &c, whoſe exorbitances, not perſons, are diſtaſtefull to him, and all good Chriſtians; but for its ſeaſonableneſs, tinouſly to inform them to mend themſelvs ſpeedily, or ſubmit to be mended by more indiffeent judgments; not for any profit that may thereby redound to him in private, more then ſhall to all in publick; not for any praiſ hee deſireth (which I muſt witneſs hee deſerveth above many thouſands) to himſelf; but for the glorie of God, which hee zealouſly

lously intendeth in all his studies & actions, & honor of most worthily honored personages (of his kindred and alliance) which hee conceiveth will bee much improv'd by their accumulating their merits in the accomplishment of this work of Reformation religiously begun, and indefatigably pursued by them, continually promised by others, universally exspected by all (except those promisers that never meant to bee performers) and particularly pointed at in this Treatise, and my former, so far as I humbly conceiv necessarie for Law, & Officers needfull for the Commonwealth: For which vigeat, floreat, duret, *shal bee my daily praiers.* Amen *again.*

Anno

Anno III. Caroli Regis.

THE PETITION Of Right granted n the third year of the late King, and confirmed this preſent Parliament for the good of the Common-wealth.

To the Kings moſt excellent MAIESTIE.

HUmbly ſhew unto our Sovereign Lord the King, the Lords Spiritual and Temporal and Commons in Parliament aſſembled,

bled, that whereas it is declared and enacted by a Statute made in the time of the reign of King Edward the first, commonly called, Statutum de Tallagio non concedendo, That no Tallage or Aid shall bee laid or levied by the King, or his Heirs in this Realm, without the good will and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other the Freemen of the Commonaltie of this Realm. And by Autoritie of Parliament holden in the five and twentieth year of the reign of King Edward the third, it is declared and enacted, That from henceforth no person should bee compelled to make anie Loans to the King against his will, becaus such Loans were a-

gainst

ainſt reaſon, and the Fran-
hiſe of the Land. And by o-
her Lawes of this Realm it
s provided, that none ſhould
ee charged by anie charge or
impoſition, called a Benevo-
nce, nor by ſuch like Charge,
y which the Statutes before
nentioned, and other the good
Laws and Statutes of this
Realm, your Subjects have
ave inherited this Freedom;
That they ſhould not bee com-
elled to contribute to anie
Tax, Tallage, Aid, or other
ike Charge, not ſet by com-
non conſent in Parliament.

Yet nevertheleſs of late,
ivers Commiſſions directed
o ſundrie Commiſſioners in
everal Counties, with inſtru-
tions, have iſſued; by means
your people have been in di-

vers

vers places assembled, and required to lend certain sums of money unto your Majestie, and manie of them upon their refusal so to do, have had an Oath administred unto them, not warrantable by the Laws or Statutes of this Realm, and have been constrained to become bound to make appearance, and give attendance before your Privie Councel, and in other places; and others of them have been therefore imprisoned, confined, and sundrie other waies molested and disquieted. And divers other charges have been laid and levied upon your people in severall Counties, by Lord Lieutenants, Deputie-Lieutenants, Commissioners for Musters, Justices of Peace,

And

And others by Command and Direction from your Majestie, or your Privie-Councel, against the Laws and free Customs of the Realm.

And where also by the Statute called, The great Charter of the Liberties of England, It is declared and enacted, That no Freeman may bee taken or imprisoned, or bee disseised of his Free-hold, or Liberties, or his free Customs, or bee outlawed, or exiled, or in anie manner destroyed, but by the lawful Judgment of his Peers, or by the Law of the Land.

And in the eight and twentieth yeer of the reign of King Edward the third, it was declared and enacted by autoritie of Parliament, that no man of what

what estate or condition that hee bee, should bee put out of Land or Tenements, nor taken nor imprisoned, nor disherited, nor put to death without being brought to answer by due Process of Law.

Nevertheless against the tenor of the said Statutes, and other the good Laws and Statutes of your Realm, to that end provided, divers of your Subjects have of late been imprisoned without any cause shewed: and when for their deliverance they were brought before your Justices by your Majesties Writs of Habeas corpus, there to undergo and receive as the Court should order, and their Keepers commanded to certifie the causes of their detainer, no cause was certified,

tified, but that they were de-
teined by your Majesties spe-
cial command, signified by the
Lords of your Privie-Coun-
cel, and yet were returned back
to several prisons, without be-
ing charged with anie thing to
which they might make answer
according to the Law.

And whereas of late great
Companies of Souldiers and
Mariners, have been dispersed
into divers Counties of the
Realm, & ye inhabitants, against
their wils, have been com-
pelled to receive them into their
houses, and there to suffer
them to sojourn against the
Laws and Customs of this
Realm, and to the great grie-
vance and vexation of the peo-
ple.

And whereas also by auto-

ritis of Parliament, in the five and twentieth year of the Reign of King Edward the third, it is declared and enacted, that no man should bee forejudged of life or limb against the forme of the Great Charter, and the law of the Land: and by the said Great Charter and other the Laws and Statutes of this your Realm, no man ought to bee adjudged to death, but by the Laws established in this your Realm, either by the customs of the same Realm, or by Acts of Parliament; And whereas no offender, of what kinde soever, is exempted from the proceedings to bee used, and punishments to bee inflicted by the Laws & Statutes of this your Realm: Nevertheless, of late time divers Commissions under your Majesties great Seal

Seal have issued forth, by which certain persons have been assigned and appointed Commissioners with power and authoritie to proceed within the land, according to the Justice of Martiall Law, against such Souldiers or Mariners, or other dissolute persons joyning with them, as should commit anie murther, robberie, felonie, mutinie, or other outrage, or misdemeanor whatsoever, and by such summarie course and order, as is agreeable to Martial Law, and as is used in Armies in time of War, to proceed to the tryal and condemnation of such offenders, and them to cause to bee executed, and put to death according to the Law Martial.

By pretext whereof som of

your Majesties Subjects hav: been by som of the said Commissioners put to death, when and where, if by the Laws and Statutes of the land they had deserved death, by the same Laws and Statutes also they might, and by no other ought to have been judged and executed.

And also sundrie grievous offenders by color thereof, claming an exemption, have escaped the punishments due to them by the Laws and Statutes of this your Realm, by reason that divers of your Officers and ministers of Justice have unjustly refused, or forborn to proceed against such offendors, according to the same Laws and Statutes, upon pretence that the said offenders

were

were punishable only by Martial law, and by autoritie of such Commissions as aforesaid. Which Commissions, and all other of like nature are wholly and directly contrarie to the said Laws and Statutes of this your Realm.

They do therefore humbly pray your most excellent Majestie, that no man hereafter bee compelled to make or yield anie Gift, Loan, Benevolence, Tax, or such like Charge, without common consent by Act of Parliament. And that none bee called to make answer, or take such Oath, or to give attendance, or bee confined, or otherwise molested, or disquieted, concerning the same, or for refusal thereof. And that no Freeman, in anie

such

such manner as is before mentioned, bee imprisoned or detained. And that your Majestie would bee pleased to remove the said Souldiers and Mariners, and that your people may not bee so burthened in time to com. And that the foresaid Commissions for proceeding by Martial Law, may bee revoked and annulled. And that hereafter no Commissions of like nature may issue forth to ane person or persons whatsoever, to bee executed, as aforesaid, lest by color of them ane of your Majesties Subjects bee destroyed, or put to death, contrarie to the Laws and franchise of the Land.

All which they most humbly pray, of your most Excellent Majestie,

Majestie, as their Rights and Liberties, according to the Laws and Statutes of this Realm. And that your Majestie would also vouchsafe to declare that the Awards, doings, and proceedings, to the prejudice of your people, in anie of the premisses, shall not bee drawn hereafter into consequence or example. And that your Majestie would bee also graciously pleased, for the further comfort and safetie of your people, to declare your Royall will and pleasure, That in the things aforesaid, all your Officers and Ministers shall serve you, according to the Laws and Statutes of this Realm, as they tender the Honor of your Majestie, and the prosperitie of this Kingdom.

Which Petition beeing read, the ſecond of June, 1628. the Kings Anſwer was *thus delivered unto it.*

THe King willeth, that Right bee don, according to the Laws and Cuſtoms of the Realm; And, that the Statutes bee put in due Execution, that His Subjects may have no cauſ to complain of anie wrong, or oppreſſions, contrarie to their

their juſt *Rights* and *Liberties:* To the preſervation whereof, Hee hold's Himſelf in conſcience aſwel obliged, as of his *Prerogative.*

But this Anſwer not giving ſatisfaction, the King was again petitioned unto, that hee would give a full and ſatisfactorie Anſwer to their Petition in full Parliament.

Whereupon

Whereupon the King in perſon, upon the ſeventh of June, made this ſecond ANSVVER.

My Lords and Gentlemen!

THe anſwer I have alreadie given you, was made with ſo good deliberation, and approved by the Fudgments of ſo manie wiſe men, that I could not have imagined, but that it ſhould have given you full ſatisfaction; but to avoid all ambigu-

ous

guous interpretations, and to ſhew you that there is no doubleneſs in my meaning; I am willing to pleaſe you in words, as well as in ſubſtance; Read your Petition, and you ſhall have an anſwer, that I am ſure will pleaſe you.

And then cauſing the Petition to bee diſtinctly read by the Clerk of the Crown, The Clerk of the Parliament read the Kings Anſwer thereto in theſe words,

* Soit droit fait come eſt deſire. * Let Right bee done as is deſired.

which

Which beeing don, the King in Perſon ſaid thus:

THis I am ſure is ful; yet no more then I granted you in my firſt Anſwer; for the meaning of that was, to confirm all your Liberties: Knowing, according to your own Proteſtations, that you neither mean, nor can hurt my Prerogative: And I aſſure you, my Maxime is, That the People's Libertie ſtrengthen's the Kings Prerogative, and that

that the Kings Prerogative, *is to defend the people's* Liberties.

Yee ſee now, how readie I have ſhewed my ſelf to ſatisfie your Demauds, ſo that I have don my part ; Wherefore if this Parliament have not a happie Concluſion , the ſin is yours , I am free of it.

And

AND

June 26. 1628. On the laſt day of the Seſſion;

His MAIESTIES Speech to both Houſes, Before His Roiall aſſent to the Bills, was this.

My Lords and Gentlemen!

IT *may ſeem ſtrange that I com ſo ſuddenly to end this Seſſion: therefore before I give my aſſent to the Bills, I will tell you the Cauſ, though*

though I must avow that I owe an account of my Actions to none but God alone. It is known to everie one, that a while ago the Hous of Commons gave mee a Remonstrance; how acceptable everie man may judg; and for the merit of it, I will not call that in question, for I am sure no wise man can justifie it.

Now since I am certainly informed that a second Remonstrance is preparing for mee, to take away my profit of Tonnage and Poundage (one of the chiefest maintenances of the Crown) by alledging that I have given away my right thereof, by my Answer to your Petition.

this

This is so prejudicial unto mee, that I am forced to end this Sessions som few hours before I meant it, beeing willing not to receiv anie more Remonstrances, to which I must give a harsh answer.

And since I see that even the Hous of Commons begin's alreadie to make fals Constructions of what I granted in your Petition, lest it bee wors interpreted in the Countrey, I will now make a Declaration concerning the true intent thereof.

The Profession of both Houses, in the time of hammering this Petition, was ma waies to trench upon my Prerogative,

rogative, saying, They had neither intention nor power to hurt it.

Therefore it must needs bee conceived, that I have granted no new, but only confirmed the ancient Liberties of my Subjects: Yet to shew the cleerness of my intentions, that I neither repent, nor mean to recede from any thing I have promised you, I do here declare, That those things which have been don, whereby men had som caus to suspect the Liertie of the Subjects to bee renchʼt upon (which indeed was the first and true ground of the Petition) shall not hereter bee drawn into Example for

for your prejudice : And in time to com (in the word of a King) you ſhall not have the like cauſ to complain.

But as for Tonnage and Poundage, It is a thing I cannot want, and was never intended by you to ask , never meant (I am ſure) by mee to grant.

To conclude , I command you all that are here , to take notice of what I have ſpoken at this time, to bee the true intent and meaning of what I granted you in your Petition : But eſpecially you, my Lords, the Judges, for to you onely, under mee, belong's the interpretation of Laws; for none

the Houſes of Parliament,
nt or ſeparate, (what new
ctrine ſoever may be raiſed)
ve any power, either to make
declare a Law without my
nſent.

The

Here followeth the Confirmation of the said Petition by this present *Parliament* (as it is to bee read in the Act, Intituled, *An Act for the declaring unlawfull and void the late proceedings touching Shipmonie, and for the vacating of all Records and proceſſe concerning the ſame,*) in theſe words viz.

BEE it declared and enacted by the Kings moſt Excellent Majeſtie, and the Lords and Commons in this preſent Parliament aſſembled

d by the autoritie of the
ne, That the ſaid Charge
poſed upon the Subject for
providing and furniſhing
Ships, commonly called
ip-monie, and the ſaid ex-
judicial opinion of the ſaid
ſtices and Barons, and the
d Writs and everie of them,
l the ſaid agreement or opi-
n of the greater part of the
l Juſtices and Barons, and
ſaid Judgement given a-
nſt John Hampden, *were*
l are contrarie to and a-
nſt the Laws and Statutes
this Realv, the Right of
pertie, the libertie of the
jects former Reſolutions in
liament, and the Petition
of

of Right made in the third year of the Reign of his Majestie, that now is. And it is further declared, and enacted by the Autoritie aforesaid, That all and everie the Particulars praied or desired in the said Petition of Right shal from henceforth bee put in Execution accordingly, and shal bee firmly and strictly holden and observed, as in the same Petition they are praied and expressed.

Observe that the greater part of Justices and Barons used to direct Writs and Agreements, and give their Opinions and Judgements con-

trari

rarie to and againſt the Laws
nd Statutes of this Realm,
he Right of Propertie, & the
ibertie of the Subjects. And
hy therefore ſuffered longer
o to do? and their unanimous
nimals ſit in Parliament *to*
nake Laws by their advice to
their own ends, and publick
miſchiefs?

FINIS.

---

16 MA 63

Ju

Or,
diffe
reve
Auth
Neal
Cens
LILL
Lond

Wri

Not
agai
him,
of L
it is

Nor o
cont
the
that
righ
writ
laws
Flat
colo
to p

Hosti

An E

London
three

JURORS, JUDGES OF *LAW* and *FACT*:

Or, certain Obſervations of certain differences in points of Law between a certain reverend Judg, called *Andr. Horn*, and an uncertain Author of a certain Paper, printed by one *Francis Neale* this year 1650. ſtyled, A Letter of due Cenſure and Redargution to Lievt. Col. JOHN LILBURN, touching his Tryall at Guild-Hall, London, in Octob. 1649. ſubſcribed H. P.

Written by JOHN JONES, *Gent.*

Not for anie vindication of Mr. *Lilburn* againſt anie injurie which the ſaid Author doth him, who can beſt vindicate himſelf by due courſ of Law; if not rather leav it to God whoſe right it is to revenge the wrongs of his ſervants.

Nor of my ſelf, but of what I have written much contrary to the Tenents of this Letter; and for the Confirmation of the free People of England, that regard their libertie, propertie, and birthright, to beleev and ſtand to the truth that I have written, ſo far as they ſhall finde it ratified by the laws of God and this Land; And to beware of Flatterers that endevor to ſeduce them under colour of good counſel, to betray their Freedoms to perpetual ſlavery.

Hoſtis vera dicens amico ad gratiam ſimulanti omnino præponendus eſt: Euſ.

An Enemy ſpeaking truth, is to be always preferred before a flattering Freind.

London, Printed by *W. D.* for *T. B.* & *G. M.* at the three Bibles in *Pauls* church-yard, near the weſt end

PO
And
A

I

Wi
and

To the

POLITIQUE BODIE,

And Unanimous Fraternitie of the

ARMY of ENGLAND;

Officers and Souldiers,

Ioyntly and severally.

HOnored and Honorable: Commanders and Commanded: Wise and Prudent: Grave and Valiant: Seniors and Ju-

Juniors: Souldiers all: Unknown to moſt, Cheriſhed by ſom, ingaged to many; I preſume to write to you all, concerning what moſt concerneth us all: To Honor God: To love his Children: and hate, and quell his enemies, are his own Commandements: And although the two firſt be the greateſt, yet is the third none of the leaſt duties required of us all, as appeareth by that account

given

given by *David* ſaying, *Pſal.* 139. 21. & 22. Verſ. ſpeaking to God, *Do not I hate them that hate thee? And am not I grieved with thoſe that riſe up againſt thee? I hate them with a perfect hatred, and count them my enemies.* And the affliction of *Saul* for ſparing *Agag*, was a full example to us in that caſe. Nay, an Heathen could tell *Chariſlaus* King of *Sparta*, he did not his office when he

forbore to puniſh diſhoneſt men. I confeſs, you have fought a good Fight, and declared your ſelvs conſtant workers in the waie of our Reformation, in our Land of Promiſe: promiſed by many, performed by none, endeavored by too few. And I alſo acknowledg that you are now upon ſervice conducing in order to ſecure & maintain the model to be perfected in time, from which expedition

pedition I deſire not to divert you, (as I have written formerly to his Excellencie the Lord General) but to give you to underſtand you have left behind you more peſtiferous, dangerous, obnoxious, manifeſt, ſedulous, and conſtant enemies to God, your Countrey, your ſelvs, and us all, then you have or can have, before you, unleſs that for ſparing thoſe at home unpuniſhed, as you

might before you went, God will raiſe afflictions againſt you abroad, to make you minde your error before you return; And let you know *Achan* and his Wedg muſt be diſcovered, and he and his Familie puniſhed at home, before you can expect proſperitie abroad, for it is uſuall with God to ſend forraign Correcters to puniſh the Magiſtrates of his People that neglect the puniſhment of their

their domeſtique wicked-
neſs. Many were our *A-*
chans, even moſt of ou
Lawyers and Judges, tha
in the late Kings time Sacri-
legiouſly, and daily by ſe-
cret briberies, and oper
extortions, exhauſted the
treaſure of the people, ever
the whole eſtates, real anc
perſonal, of many thou-
ſands of the free-men o
England, conſecrated tc
the ſaid free-men, and e
ſtabliſhed upon them ever

by

by God himſelf, and his then Viceroy's, and the great Charter of *England*, atteſting their agreement thereupon. And this to be done (ſaith the Lord *Cook* ſomtimes Chief-Juſtice) under the Colour of Juſtice, is the greateſt kind of Injuſtice, and the cunningeſt Robberie that can be in the World. And do none of you know that we have ſtill ſuch as do the ſame? in compariſon of which

hich and whom, *Achan*
as but a sole, sillie, filch-
ng thief; and his single
Vedg, but a poor trifling
heft, nothing valuable to
he least share of the mean-
st undertaker for draining
Lincolnshire Fenns, and
hat is nothing in respect of
he constant draining of the
ourses of the rest of that
Countie, which also is no-
hing in respect of the rest
of all *England* and *Wales*,
more perfectly and con-
stantly

ſtantly drained by the Artiſts of *Weſtminſter*, then any Fen is or can be by Mr. *Henley*, and his partners. Nay, the extorted Fees for *Habeas Corpus's* from the Kings Bench and Fleet, yearly amount to a richer Wedg then *Achans*, which was no more then he could carrie to his Tent of the ſpoile of *Jericho*. Leſs loſs to the *Iſraelites* that were at libertie to fight for more, then what is daily

and

nd hourly carried by
many of the price of ſtarv-
ings bread, to the ſever-
ll Chambers of ſeverall
Weſtminſter Judges; ſo loſs-
ull to hungrie Priſoners,
hat manie thouſands of
hem loſe their lives by
hat means, before they
an procure their libertie to
peak with their Creditors.
Have we not had more men
oſt ſo in dungeons in *Eng-*
and and *Wales*, wrong-
ully impriſoned and mur-
thered

thered by Judges and Gaolers, then you have loſt in the field, hurt by the hand of your enemies? And were not too many of thoſe (ſo loſt under the hands of Goalers and dooms of Judges) ſouldiers that returned ſafe from the mouths of Cannons, and the Swords of enemies, whoſe widows and fatherleſs children crie to men in vain for Juſtice and relief in this caſe? And ſhall not God

od hear the crie of the
oor, and of the blood of
many *Abels*? when men
ill not? I beſeech you lay
eſe things to your hearts,
d conſider in time; And
t it not be ſaid that any of
ou accept bribes of Law-
ers, to diſpence with their
ibing, extorting and
urthering of whom and as
any as they pleaſe of your
riends, kindred and Coun-
eymen, whoſe caſe ano-
er day may be your own,
if

if you timely prevent it not. Som do inform you that they are beneficial men unto you; thoſe are falſ counſellors, for what can they give unto you, but what is none of their own? Nay more, but what is your own? forfeited and adjudged unto you amongſt the reſt of the Commonwealth, and ſo confeſſed even by their own mouths, (as I have written and proved formerly) be there-

fore

ore pleaſed to make your
elvs Maſters of your own
hiles it is in your power,
expect it ſhall be told
ou the Virgins Lamp is
ut. If your preſent in-
gement will not permit
y of you to ſee this done,
aſe not to ſollicit his Ex-
llencie to write to the
ouſ, to deſire them to put
ut of their aſſembly al mer-
enarie profeſſors of Law
at poiſon their Counſell,
o leſs then their predeceſ-

ſor

ſors did the King, making them to do the ſame things wch they condemned in him; to the more grief of the People, that were promiſed Reformation, and are paid in more and worſ deforma-tion of their Laws and Li-berties then they were be-fore: witneſs amongſt ma-nie more abuſes, the Fen Proje& of *Lincolnſhire*, &c. condemned in the late King, yet ſupported by more Malignant Royaliſts then

ien in reſpect of Juſtice,
e himſelf could be any,
ho are Judges, Parties and
artners of the prey made
y themſelvs of other mens
ights, of whoſe ſervice and
ffections, both Parliament
nd Army have had no leſs
xperience, then of their
efects and delinquencies:
nd move his Excellencie
o deſire the Houſe further
o command the keepers of
e great Seal to iſſue forth-
ith Commiſſions of *Oyer*
and

and *Terminer* (as by Law they ought to all parties grieved, that ſhall demand them, directed to ſuch Commiſſioners as the grieved parties ſhall nominat to enquire, hear and determine the extortions, oppreſſions and miſdemeanors of Sheriffs, under Sheriffs, Gaolers, and other Officers ſubject to popular offence. And laſtly, to deſire the ſaid Houſe to paſs an Act for the ſetling of the

Law

w hereafter (in that plain-
ſs, ſhortneſs and cheap-
ſs) as hath been often de-
ed in divers Petitions of
ndoners and others and by
laſt Letter to his Ex-
lencie, bearing date a-
ut the beginning of this
onth, according to the
poſitions of 12 heads of
w there incloſed which I
derſtand in *Scotland* were
livered to his Excellen-
s hands: So God him-
f ſhall bleſs you and
your

your Actions, and the people preſent and future, and even your ſelvs and your Children have cauſe to rejoice in your work, and be thankfull to God and your induſtrie for ſo great a favor. So ſhall

16 MAG

Your Faithfull ſervant

From my Lodging at Mr. Mundays houſ in Clarkenwel, this 29. of July, 1650.

John Jones.

JURORS JUDGES OF *Law and Fact:*

SIR!

HAving casually met with and perused your printed paper, styled, A Letter of due Censure and Redargution to Lieutenant Collonel *John Lilburne*, touching his Triall at *Guild-*

Hall London: in *October* last 1649. I could not chuſe but take hold of your firſt Lines, wherein you ſay God's ſtrict Injunction obliges us all to *reprove ſin* whereſoever we finde it. And thereupon I muſt tell you, that whatſoever you finde in Mr. *Lilburne*, I can finde in you no leſs then ſin againſt God, whoſe name you abominably abuſe, to reprove truth, and call good evill, and evill good: againſt Mr. *Lilburne*, whom you make but your Inſtrument to play upon, while you wound others through his ſides, yea, even thoſe moſt, whom you flatter moſt: Againſt the true and Ordinarie *Judges* of the Land, the *Jurors*, whoſe verdict is the effectual Judgement whereby

whereby all men are judged by their Peers, aſwell for their Lives as Lands, without which Judgement, the Law of *England* cannot be Lawfullie executed: And generally againſt all the Free People of this Common-wealth, whom you endeavour to blinde and enſlave by your ſophiſtrie unto uſurped Authorities, perſwading (as much as in you lyeth) all your Countrie-men to ſubmit, and give away their Lives, their birthrights, Liberties, and Freedoms (for the preſervation whereof all their juſt Laws, and Civill Wars, and eſpecially this laſt, were made) to the inſatiable Tyrannie of their incroaching Impoſtors, as ſhall appear following, *viz.* Page

ſa, of your *Letter* (or rather *Libell*) in the ſecond head of thoſe things for which you ſay Mr. *Lilburne* is liable to reproof, you tell him he laid hold of *divers ſhifting Cavills, and ſhufling exceptions in Law*, which were onely fit to waſt time, and procure trouble to the Court; Sir! if Law alloweth Exceptions, called delatories, and lawfull Traverſes as well in Pleas for Land as for Life; as you may finde it doth and ought in Mr. *Hornes* Book called the *Mirror of Juſtice*, written by him in French in *Edward* the Firſt his time, as you may obſerve in the Margent of the 6th page thereof, and excellently tranſlated into Engliſh lately by *William Heughes* Eſquire,

a diſcreet and learned Lawyer living in *Grayes Inn*, of which kinde of Exceptions, ſome be Pleas for Actions and Appeales, the Preſidents whereof are briefly and diverſly, according to the diverſity of their cauſes, natures, and uſes, demonſtrated unto you in the ſaid Book, from *p.* 129. to *p.* 143. and thence to 146. are Exceptions, or Pleas to Indictments; the ſummary reaſon of all which is not as you call it, to waſte time, and to procure trouble to Courts, but to beſtow time as it can be no better beſtowed (eſpecially in Caſes of life) then to ſearch out the truth of every Cauſe, that mens lives be not raſhly loſt, which cannot be recovered if condemned and

executed, how be it, wrongfully, or careleſly: ſo, that to be carefull, circumſpect, and well adviſed in a Court is not to trouble it, for it is its duty to be exerciſed as it is ſignificantlie derived à *Curando*; that is, a *Court* of *Care*, or *Cure*, Indifferentlie either, or rather both, as it is Ordained Care to be troubled to hear and determine the Cares and troubles of all men within its verge, for Controverſies of Law, (that vex & trouble an whole hundred of Friends and neighbours to ſee but two of them undoe themſelves in ſuits at Law, or kill one another) with Care to examin them truly, and to Judge them juſtly; And likewiſe to cure the Malladie of the Conſciences, or at leaſt

leaſt the intemperance of the Litigious ſpirits of Plaintiffs and Defendants, by ending their differences (as may be moſt available for their Peace, and the Common-wealth. And as it is the duty of a Court to be troubled to end troubles, ſo ſaith Mr. *Horne p.* 58. not to accuſe any for matters of Crime and Life, though a known offender, learning of Chriſt in the Caſe of *Magdalen:* Nor to countenance Bloody Accuſers, but to mollifie their Rigour, as Chriſt did in the ſame Caſe; for Judges that repreſent God, and ſhould imitate his mercy as well as his Juſtice, ought not to *deſire the death of a ſinner, but rather that he may return from his wickedneſs,*

and live; and *Conveniens homini eſt hominem ſervare voluptas: Et meliùs nullà quæritur Arte favor.* Nothing more Convenient for Man, or acceptable to God, then to ſave Penitents, whom he came not to deſtroy, but to call to Repentance: Nor is it the part of a Judge (as in *p.* 66. of my ſaid Author) to condemn one for the ſame, or the like offence, as the Judge knoweth himſelf guilty of. And therefore Exceptions are lawfull, to the Power of a Judge, as in *p.* 133. to his perſon; as in *p.* 135. and to his condition, as in *p.* 59. And thoſe that are granted to be lawfull to be propounded againſt his Power *p.* 133. are the ſame in ſubſtance, which you ſay Mr.

Lilburne

Lilburne made uſe of, & yet call them *ſhifting cavills*, & *ſhufling exceptions*, & reprove him for uſing them in defence of his life. I pray compare them together, & then conſider what and whom you reprove; & you can not chuſe but finde that for the matter, it is not a *ſhifting cavil*, or *ſhufling exception*, but the *ſolid fundamentall Law of England*, affirmed by all men that truly underſtand it, to be moſt Conſentaneous of all Laws, to the Law of God; And for the Perſons, it is not onely Mr. *Lilburne* that deſired thereby to preſerve or prolong his life, but all the ſage makers, & religious obſervers thereof, whereby you perſwade all your Countrimen preſent & future, to diſeſteem ſuch exceptions (even to ſave

their lives) and consequently to cast themselves away upon the wils, and hast of Commissarie Judges, who may be the onely, or chief Accusers, or Adversaries the Party questioned for his life can have; which for any such Partie to do, were to be more then mad, and even the Author of his own death, and of Gods Wrath upon his soul, which if he so wilfullie lose, what is it to him to gain a world in lieu thereof? And why do you (more falsly then *Caiphas* that told one truth in his life unknown to himself) offer to perswade us to becom willing to sacrifice our selves one after another, to the lying bloody constructions of that Generall, and true Position

Salus

Salus Populi, &c. The Health of the Nation; is the chiefeſt Law; which you vaunt to be the empreſs of all your Maxims, whilſt you conſtrue it to the deſtruction of the Nation (as they are very ſenſible thereof,) and make it onely healthie to rotten Commiſſarie Judges, and corrupt Lawyers, whom you make the ſole Judges thereof; for what Chriſtian can bee ſo ſenſleſs as to believ, or conceiv, that the ſacrificing of any one man in that manner onely, for the ſuſpition (perhaps of no more then the Judge that findes himſelf moſt guilty of the Cauſe) as of being more able then another to raiſe or cauſe War againſt us; can avail us: For Sir! God delighteth not

in

in bloody and dead ſacrifices, but in our humble, penitent, and lively Prayers, who are, or ought to be his living ſacrifices; And he that is as well the Lord of Hoſts, as the God of Peace, is our loving Father, and he will heare us when we call upon him in his Sons Name, and open his gate of mercie unto us when we knock as we ought, and whatſoever good we ask him in that name, he will not onely give it us, but moreover ſtrengthen us as he did *Jacob*, to wraſtle with himſelf, and to overcom his Anger, which an Heathen could underſtand and ſay: *Flectitur iratus voce rogante Deus*: Gods Anger ſtoopeth to his Childrens Prayers: And none but he can raiſe any warr againſt

againſt them; nor will he fur. ther then their ſins deſerve his puniſhment; and ſo farr; *Is there any evill in Iſrael, but it is he that doth it?* What do you therefore but ſhew your ſelf diffident of his merciſull omnipotence, and rob him of his Glory, when you attribute his power to man, to make War or Peace, and make your ſelf wiſer then he, when you think to prevent his will by your policie? and ſtronger then he, if you could deſtroy whom he would ſave? And therefore (ſaith *Melancton*) Men are but fooles *Vincula cùm tendunt impoſuiſſe Jovi*: when they ſuppoſe they can Chain the Dietie. And who can but ſee, that if it be granted you, that every

Free

free man of *England*, whom you, or a Commiſſarie Judge, or any other, as bad, ſhall ſuſpect, or be pleaſed to accuſe for ſuſpition, of what you think good to invent, you may accuſe whom you will, and hang whom you liſt, and leave none to live, but at Lawyers diſcretion, whilſt the truth is, that ſo farr as any one man or more of any kind of men, whatſoever, can be called or accounted raiſers or cauſers of War in *England*, the Lord *Cook*, Mr. *Horne*, and other ſound Lawyers tell you they ever were, and will be corrupt and mercenarie Lawyers, that ſell, delaie, and denie Juſtice, and the benefit of the great Charter of *England* to the People thereof; the due

puniſh-

puniſhment of whom, & of all Sycophants that ſooth them up in their Errors, would be *Salus Populi*; for they are a conſiderable Army that have over-powred us theſe 500. years, Hyperprelaticall Spirits; Domineering Nimrods; Undermining Pioners, (ſo that what was ſaid of *Rome* ſince the Popiſh Prelacy ruled it, may be ſaid of *England* ſince Lawyers overſwayed it, *viz. Servierant tibi Anglia priùs domini dominorum, ſervis ſervorum nunc miſeranda ſubes.* O thou that wert the Lady of Lords, art the Slave of Slaves.) And a ſubtle and viperous generation that add Policie to their Power, to gnaw their Mothers bowels, and uſe to make diſſentions

and

and Factions between even their own Brethren, to make work for themselvs to reconcile them, or most commonly by the strength of the weakest, to destroy the strongest, till they be able to Master both, and by right seldom, and wrong constantly, to make and keep themselves rich, whosoever be poor, to accuse and condemn all their superiors for tyrannie, to make way for themselves to be the onely superviving supreme Tyrants, and compleat Dionysians. The onely Monopolizers of Law, to sell, delay, and denie Justice to the Free Men of *England* their Slaves, at their wills and pleasures in their Congregational Exchange *Westminster Hall*. And

whereas

whereas you ſay thoſe *ſhifting cavils & ſhufling exceptions* wch Mr. *Lilburne* made uſe of, to waſte time, and procure trouble to the Court, were far from making any defence for him: I pray you what defence could he deſire thereby but to ſave his life? And was not that done by the Verdict of a Jury, that heard what he ſaid for himſelf, received all the Evidences that were given againſt him, and were Charged and ſworn to give their Verdict according to their Evidence: was not that Verdict confirmed and ratified by the right Honorable the Councell of State, by the aſſent of the moſt Honorable and Supreme Court of Parliament? without which either

ther by an implicit generall Warrant, or a ſpeciall Expreſs: no man can be ſo mad as to think they would inlarge him? was not this as Full and fair a Triall as Mr. *Lilburne* could wiſh, or any man (Queſtioned for Treaſon) had theſe 100. years, or ſince Juries, (that underſtood Law no better then you) were content to be bafled by Commiſſarie Judges, and give what Verdict they pleaſed, as well for mens lives as their lands: did not his Exceptions and pleadings (whatever you call them) come near enough (how ever the Court liked them) to make him a ſufficient defence in that mater? doth it not follow, that by your ſaid ſaying, you make

your

your ſelf a naked lyar? and can ſo apparent a lyar be a Creditable reprover of ſin? the Devill he can as ſoon: doth it not further follow, that Mr. *Lilburne* hath his Action of the Caſe againſt you, for queſtioning him for the ſame offence that he is acquitted of by ſo due a Courſe of Law? Doth it not moreover follow, that by traducing that Verdict and acquittall, you conſequentlie traduce, not onely the Jurie, but alſo the Councell of State, and the Parliament that Confirmed the ſame as aforeſaid? And are not you therefore lyable, not onely to the ſeverall Actions of everie Juror, but alſo of *Scandalum magnatum*? But what need you care, you are

are too cunning for them all, in Concealing your name at large from them whom you ſlander at large, and ſend your Book to them with a *ſine me Liber ibis in urbem*; ſo that they know not when, where, or how to finde you out by that uncertain notion, or mark of *H. P.* Which for any thing I know, may ſignify ſome Soap-ſtuff, as well as any mans name; but take heed leaſt *John* ſmell you out, and con-temperate you in his Com-pounds for ſome ſimple corra-ſive ingredient which he uſeth (not to any intent of malice, but to eat off ſom of your proud fleſh, and not to de-ſtroy any ſound part in you, as you ſay in the title of your Book you uſe your reproof to him)

him) to make a ſpeciall kind of ſoap to waſh the brains of ſuch Orators as perſwade men to becom ſuch fools, s to make no uſe of Lawfull exceptions againſt their Judges (eſpecially Commiſſaries) o ſave their lives: and the ongues of ſuch Sycophants s under pretence of reproving the meaneſt, and weakeſt ort of ſinners; approve, and mprove the greateſt and ſtrongeſt kinde of Murtherers, Traytors, Perjurers, *&c. viz.* Commiſſary Judges in generall, in their practiſe at large. But more to the matter, where you ſay in your 5th head, in he ſame 3d page of your Libell: The 5th thing you ſay deſerveth a keen reproof of all honeſt men, was Mr. *Lilburnes*

burnes assayling the sincerity of his Jury: and page 21. you say he promoted his 12. men, &c. and caused them to imploy their new given Jurisdiction, onely to the advantage of the giver. Truly Sir! I must confess, that if Mr. *Lilburne* assailed the sinceritie of his jury, he was to blame: but I cannot find by any thing you prove, that he did so, for the Clamor of the People (who were not his disciples as you belie them and him too) were not in his power to stop, more then in yours, or mine, had we been there; for if they would not obey the Crier of the Court, they would not have obeyed us more then him, who desired (as he needed) rather to be heard, then disturbed

disturbed, and distracted with Clamors. And for his blandishments to his Jurie, good Language became him to give, and them to receiv, but not such adulations as you give all Commissary Judges: And to use all the lawfull means he could to inform them, and all his Auditors that knew him not, nor his innocence in that Cause, and merit in others; and thereby to prolong his life in the Land which the Lord his God hath given him, and to keep himself a living sacrifice to, and for his God, untill it please his Dietie to call him to his mercy by the Ordinarie way of common death, or to inspire him to fight again in his Masters Battell and Countries service: whereby he

he may dye an extraordinary death, more to his Masters glory, and his own honor, then by casting away his life (to becom a dead sacrifice to the malice of men, whether Commissary Judges, such as you plead for; or other flattering Sycophants, such as you make your self) I conceiv to be no fault in Mr. *Lilburne*. In the next place, where you say Mr. *Lilburne* promoted his 12 men to a new Jurisdiction; I am sure, that is another Lie of yours, for you may read in the Lord *Cooks Institutions* upon the 35 Chapter of *Magna Carta*: That County Courts, Court Barons, Sheriffs-Turnies, and Leets, were in use before King *Alphreds* time;

In

In all which Courts the Jurors were the Jud ges, & their then untraverſable Verdicts were the Judgments in all Cauſes: And Sheriffs and Stewards, who were the Kings Commiſſary Judges in their Turnies, and Leets, as now they are the States, were, and ſtill are but the ſuitors Clerks in Counties, Hundreds and Court Barons, to enter their Judgments, and do execution thereupon by themſelvs and their Bayliffs, as publique ſervants, or Miniſters of common Juſtice to their Jurors, and the reſt of the Common Wealth: See Mr. *Kitchen* Fo. 43. yet were they as abſolute Commiſſary Judges by vertue of their Writs, when they have them for matters a-

above 4s. as the Judges at *Weſtminſter* ever were, or can be by their Commiſſions: And all Common Pleas between Party and Party (and the King, Queen, and Prince were accounted but Parties as other Plaintiffs and defendants in ſuch Pleas) were holden in the County Court from Month to Month, untill for the eaſe of the People, eſpecially husband-men to follow their buſineſs; The King with their aſſ-nts divided the view of *Frank pledg* from the Sheriff who by all the Peoples aſſent in Parliament 9. *Ed.* 2d was to be thence forth aſſigned by the Chancellor, the Kings Commiſſiary Judge in his Turnies, (called before the Kings own Turnies) to ſee Juſtice

Juſtice done from County to County; Aud all the free pledges of every County together, once every 7. years, which is ſince to be done by Sheriffs twice yearly) and gave them to Lords of Mannors, ſo, that their Tenants and Reſiants ſhould have the ſame Juſtice in their Leets and Court Barons, as they had in the Sheriffs turnies and County Courts at their own doors without any charge, or loſs of time? And for the ſame reaſon (ſaith the Lord *Cook* in the ſame place) Hundreds were divided from Sheriffs, *viz.* that none ſhould be troubled further, or out of their Lords Court at all; at which Courts (ſaith Mr. *Horn* p. 7.) Juſtice was ſo done,

that every one ſo judged his neighbor by ſuch Judgment as none could elſwhere receiv in the like caſes, untill ſuch time as the Cuſtoms of the Realm were put in writing. And as the County Courts, Hundred Courts, and Court Barons were of one Juriſdiction, ſo were Turnies, and Leets, and ſo all of them are, and ought to be ſtill; therefore you muſt conſider that there be three ſorts of Juriſdictions, *viz.* *Soveraign*; *aſſigned*, and *ordinary*: of theſe you may read in the *Mirror* ? *p.* 7. in theſe words, *viz.* It was aſſented unto, that theſe things following ſhould belong to Kings, and the right of the Crowne, *viz.* Soveraign Juriſdiction, *&c.* which is now

now fixed in the Keepers of the Liberties of *England*, by vertue whereof among other things all Writs, Commiſſions, warrants, Commitments, & Liberates or diſcharges run in their names as they did in the Kings, ſo that none are Impriſonable, or diſchargable, but in their names; conſider therefore again that this aſſent was the Peoples, whereby Kings, (who before, and without this aſſent, were not Kings, but ordinary men, that could have but ordinary Juriſdiction as others) had Soveraign Juriſdiction, as now the *Keepers of the Liberties of England* have by the Authoritie of Parliament, which is the Repreſentative of the People, given them by the People

with a reſervation of their ordinary Iuriſdiction, *viz.* reſerved in, by, and unto them in King *Edward* 1 his time, and ever before and ſince; by reaſon alſo of which ſoveraign and Royall Juriſdiction, as you may further read *Mirror p.* 287. Kings were called and counted (as now the Keepers of the Liberties of *England* ought to be) fountains of Juſtice, and ordained becauſe they could not be alwaies every where themſelvs, as *Moſes* did by *Jethro's* Councell, Inſtitute Captains over hundreds, Fifties, &c. and now the Keepers of the Liberties of *England* do, and muſt ordain Commiſſary Judges, viz. Commiſſioners or Judges, by their Commiſſions

missions or Writs to supply their presence, and do their office in their stead, which in Courts, is but to give their assents to the verdicts, which are the judgments of Freemen upon their Peers, whereby those Judgments being so compleated, the executions thereof did do, and must run in the name of the Soveraign Jurisdiction of the State; And so Iustice may be administred in all places, in their personall absence, who are to be accounted present in their Commissaries, who no more then their Masters can be counted Iudges of the people, because parties against them, and so made and named in, and by all Indictments, Writs, *&c.* as aforesaid. Observe

again, that Commiſſary Iudges, being ordained by their Maſters to do Iuſtice; if they fail of ſo doing by their partiallitie, wilfullneſs, or any other conſideration, as *Pilat* (who was *Cæſars* Commiſſary) and others did (whom you aptly compare to ſom of them) then they have no juriſdiction, or ordination at all, ſo that they may be diſgracefully, and that lawfully pulled, and thrown out of their abuſed places: but in civilitie and reſpect of their Maſters may be better forborn, and referred to their Cenſures. And what is diſſenting, or not aſſenting to Iurors verdicts, but a denyal, which is more then a failer of Iuſtice, for the ſpeeding whereof they muſt have no

no negative voice: for ordinarie Iuriſdiction that was the ſupreme i that gave the Soveraign (which is ſuperior to every ſingular perſon) to Kings, (as now to the Keepers of the Liberties of *England*) is ſtill the ſuperlative Iuriſdiction beyond all compariſon, that can be inferior to no authoritie, but Gods, that gave it to his people, to his Children, not to be given by them, to any above them in their generalitie, but himſelf, from whom they have received, and to whom they muſt reſtore themſevs and all that is theirs, but to be contrived, and ſubſtitued by them unto the worthieſt men amongſt them, to be imployed for and under them, as they might

finde moſt convenient for their worldly peace and ſubordinate government; to which end they deputed Kings, as now the Parliament hath don Keepers of the Liberties of *England*, reſerving ſo much of their ancient ordinary Juriſdiction to free men, that none but ſuch may be Iurors, and none but ſuch may be their Iudges for their lives, lands, and eſtates: And therefore as the Keepers of our Liberties are ſubordinate to the Parliament, ſo are their Commiſſaries to them, and both in their Iudgments, to the verdicts of the Iurors, which is their true ſaying of the whole matter, as well for Law, as Fact; and ſo is the full Iudgment of it, both in

Law

Law and effect, wanting onely the assent of the Soveraign Iurisdiction, which is the onely party supposed to be against the party guiltie, or so reputed, and hath that Majestie (or if well considered, that vassalage) given unto it, as to do, or command to be don Execution; which, if the hangman refuse upon the Sheriffs command, the Sheriff himself must doe; and if he refuse, or neglect, the Commissarie Iudge must, for as there is a Writ *de procedendo ad judicium*, and an *Alias*, *plures*, and Attachment to compell him to give his judgment, or, more properly, his assent (as aforesaid) to the Iuries verdict: So that if he delay, denie, or faile to do,

or

or cauſe Execution to be don, there is another Writ *de executione Judicii*, and an *Alias*, *Plur*, and Attachment upon that, to be had againſt him; whereupon, if a Commiſſary Iudg muſt be Attached for not giving his aſſent, (commonly called his Iudgment) to a verdict for Fellonie, *&c.* or having given his Iudgement to the verdict, ſhall denie or delay execution, except in ſpecial things hereafter touched, let him not onely be an hangman for his Fellows, but be hanged himſelf; for ſuch was King *Alfreds* Iudgment in all Caſes of injuſtice in his Commiſſary Iuſtices, as you may read in the *Mirror* from *p.* 239. to *p.* 245. when he hanged 44 of them in one year.

year. But it is obſervable how Commiſſary Judges for Gaol-deliveries do now a dayes uſe in the concluſion of their judgments upon Fellons; convicted by Iuries verdicts, and their aſſents, to command Sheriffs to ſee execution, and ſo to end their Seſſions; and get themſelvs gon out of that County with all expedition, and let the Sheriff and his hangman agree as they can bargain, for doing the execution, while the Commiſſary impoſter proceedeth in his Circuit, attributing all that he findeth the people conceiv to be injuſtice, to the Sheriff, or Iury, or both, but calling all judgments and proceedings (that are pleaſing to the people throughout his peram-

bulation.

bulation and the Ambit thereof, even the Cirquit it ſelf,) his own; becauſe the people aſſented to ſuch Commiſſions, as the devill doth the world his own, becauſe God gave him leave to compaſs it; And as proud are ſuch Lords juſtices of their Lordſhips in a kinde, as he can be of his; yet in right ought to be accounted but ſervants to their Maſters, as he to his. And therefore whereas you ſay *p.* 24. though the verdict be given in upon the whole matter, and ſo incloſe Law as well as Fact, yet the binding force of the verdict as to matter of Law, may be derived from the ſanction of the Judges, not from the Iuriſdiction of the Inqueſt: And it may well be

ſuppoſed

ſuppoſed that the Iurors may err in a matter of Law, in which caſe the Iudges muſt alter the erroneous verdict by a contrary Iudgment, and that Iudgment queſtionleſs ſhall nullifie the erroneous verdict, not the erroneous verdict the Iudgement; whereby it plainly appears, That in a verdict upon the whole matter, there is no new Iuriſdiction acquired by the Iurors in matter of Law, nor left to the Iudges; foraſmuch as the Iudgment ſtands good, and obligeth not as it is rendred by the Iurors, but as it is confirmed by the Iudges. Can a Man that would ſeem ſo Cornucopiouſly learned and wiſe as you do, be ſuch a fool, as to make ſuch a medley of nonſenſe; ſurely

ſhould

ſhould you but tell ſuch a confuſed ſtorie in one of the Inns of Chancerie, the punieſt Atturney there would hiſs you out of his mooting School. What error can be in the ſubſtance of a true ſaying, but in the form there may, and that the Iudges and the Clerks aſſume to be their office to make in Latin, and ſuch is the form, and Latin they uſually make thereof, that every word, or ſecond are commonly erroneous, and that of purpoſe for themſelvs, to make work for themſelvs, by ſpinning the Cauſe in ſuites and vain pleadings, ſomtimes to ſeven years time, that might have been begun and ended in a day, and by beggering both parties to inrich themſelvs by damnable

nable Fees and extortions, all that while? Can the verdict which is the true saying of 12. Men upon the whole matter of Law and Fact, be alter'd by a contrarie Iudgment, (as you expresly say you can) but that must be fals and an untrue saying, for what can be contrary to a true saying, but a fals? And which of them ought to be altered? you say the verdict. Whereupon let all men judg whether you are not a plain liar therein, but suppose (since you goe by suppositions) that the saying of the Iurors is not true, and therefore no verdict, such as Iudges receive, or rather arrest, and cause to be given them for verdicts by Iurors impanniled by Sheriffs, by Iudges

Iudges directions for that purpoſe. Can the Confirmation of a Commiſſary Iudg, by his Iudgment make that good? Its a Maxim in Law, that what is naught in the *foundation*, can never be made good by *Confirmation*: but I confeſs many an honeſt man is hanged by ſuch ſuppoſed verdicts, and deviliſh Iudgments. Can ſuch Lies be called verdicts, or ſuch Iudgments be called true, more then you can be called a juſt reprover, or a due Cenſurer, that reprove truth, and juſtifie lying? Can the Devill be a worſe Cenſurer or Reprover? What Iudgment (mean you) ſtands good in Mr. *Lilburnes* Caſe, who had no Iudgment at all paſſed upon him, but that verdict

verdict that ſaved him, and the aſſent of the Councell of State, and Parliament that confirmed it? And what verdict or Iudgment do you finde fault with in all your Book over but that? Surely you were in a frenzie when you wove this ſtuff not ſo good as *Linſey Woolſey*; but if you would know what ſhould be done, in caſe a Jury ſhould give in an untrue ſaying, inſtead of a verdict? (that being made to appear to a Commiſſary Judg by the Partie greived, or his Councell learned to be undeniably true; ſuch a ſeeming verdict, in caſe of life, or land of Free-hold, is traverſable; as alſo any verdict made defective, informed by Lawyers as aforeſaid, and

and thereby ſounding defect-
ive in matter, and ſo counted
erroneous by them that made
it for that purpoſe, to linge
the matter for their own gain
as you may read in Mr. *Horn*
Mirror, as aforeſaid, and in
the Statutes of 41. *Edward* 3
fol. 5. and 6. of *Henry* 7. and
19. *Henry* the eight. How-
beit for bloodſhed in Leet
there is no traverſe; becauſe
the fact is a manifeſt wrong
and if laid upon a wrong per-
ſon, he may have his Attain
againſt the Jury, and reco-
ver treble damages, by the ver-
dict of 24 better Jurors;
which remedie every party
wronged by any Jury hath be-
ſides his Traverſe. And in
caſe of life, which may be loſt
(by the malice or ignorance
of

of ſom Juries purpoſly return-
ed by ſom Sheriffs for their
own ends) if executed accor-
ding to their ſaying, and is
never recoverable by Law:
The Commiſſary Iudg upon
true information and proof
thereof, and not otherwiſe,
ought to ſtay Iudgment, or
execution, or both, untill he
can likewiſe inform the Keep-
ers of *Englands* Liberties of
the truth of the Cauſe, and
repriev the Priſoner untill
their pardon or Tollerance be
obtained for him, as was
wont in the Kings time in like
caſes, ſo, that afterwards the
Priſoner may have his Attaint
as he ought againſt ſuch a Iu-
ry, whoſe Iudgment is terri-
ble enough for example to o-
thers, and ſufficiently ſatiſ-
factory

factory to the Party, *viz.* to repair his wrong, and pay him treble damages: To forfeit their lands and goods to the Lord of the Fee; to have their houſes demoliſhed; their woods rooted; their bodies impriſoned during their lives: And Iurors ought to try Attaints without Fee *Ex officio*, as you may read in the *Mirror*, *p.* 64. And ſo let ſo much ſerve in this place to inform you that the Iuriſdiction of Iurors is to be Iudges and Verdictors of all controverſies given them in charge upon their Oaths, as well for matter of Law as Fact; and as antient as, and more permanent then Commiſſary Iudges; for when Commiſſary Iudges had abuſed their places, ſo that they

hey were beaten out of them, and Civill Wars therefore grew between Kings and people before *Magna Charta*: and ſince, untill the ſaid ſecond agreement made between *Ed.* 1. and them, whereby Coroners and Sheriffs were reordained (for they had been ordained before, as appeareth by *Magna Charta*, and long before that) to defend the Country when they were diſmiſſed of their guards, &c. for till then guards continued for the breach of *Magna Charta*, begun by *Hugh de Burgo's* means, and then Captains nd Leiutenants became Sheriffs, Coroners, &c. and Centinels, Bailiffs, &c. But lwayes the Free men judged heir neighbours conſtantly;

And

And therefore Mr. *Lilburn* neither did, nor could give his Iurors any new Iuriſdiction, nor promote them to any preferment more then of right they had, (as you moſt falſly and maliciouſly, however ignorantly accuſe him, and abuſe both him and them to introduce the reſt of your untruths which follow, for next you ſay, that thereby you perceiv his Levelling Philoſophy is, that Iudges becauſe they underſtand Law, are to be degraded, and made ſervants to the Iurors; but the jurors becauſe they underſtand no Law, are to be mounted aloft, where they are to adminiſter Law, to the whole Kingdom: the Iudges becauſe they are commonly gentlemen

men by birth, and have had honorable education, are to be exposed to scorn; but the Jurors, because they be commonly mechanick, bred up illiteratly to handy Crafts, are to be placed at the Helm, and consequently Learning, and gentle extractions, because they have been in esteem in all Nations from the beginning of the world til now, must be debased, but ignorance, and sordid births must ascend the Chair, and be lifted up to the eminentest Offices, and places of power; Coblers must now practise Physick instead of Doctors, Tradesmen must get into Pulpits, instead of Divines, and Plow-men must ride to Sessions instead of Justices of Peace. Sir, I shall not

meddle with Mr. *Lilburns* Philoſophy, but ſhall conceiv it more reaſonable, and therefore more tollerable then your ſophiſtrie, ſeeing it appeareth by your own ſetting forth, his endeavour was not to degrade Judges becauſe they underſtood Law, but to inform them better, becauſe he conceived they underſtood not Law in his Caſe, till they would be pleaſed to be better inſtructed by his learned Councell, which (as he aledged divers preſidents for) might have been as Lawfully allowed him, as thoſe that had them, for (as ſaith Mr. *Horn* 65*p*. they are both neceſſarie and allowable to ſuch Clyents, as underſtand not Law themſelvs. And for none ſo neceſſarie

ceſſarie as for their lives I think) neither doth it appear to be his purpoſe to make Judges ſervants to Jurors, becauſe they underſtood no Law, but to remember them to be ſervants to their own Maſters, to give their aſſent to the Judgment of Jurors that he conceived did underſtand Law: And what wonder were it that theſe men, who by themſelvs and their predeceſſors did put the Laws of *England* (that had been in the Engliſh tongue intelligible to all men whom it concerned) into uncoth Giberiſh of their own making, ſhould underſtand their own contrivance better then others who do underſtand Latin, French, Greek and Hebrew,

better then moſt profeſſors of Law do, and Engliſh as well: What ſubverſion of the Law can be more then ſo to tranſlate it, that thoſe whom it moſt concerneth, can neither underſtand it, nor be excuſed by their ignorance in not underſtanding it, and ſo make it their net (whoſe libertie it ſhould be) and all to the end, that thoſe whom it concerneth leaſt, or not at all, may elevate themſelvs by means of ſo unlawfull and preſtigiatorie, and illiberal an Act, (nothing ſo harmleſs, nor ſo free and cheap as *Cunting*) from little or nothing to greatneſs, from *Lourdeyneſs* to *Lords*: And what can the ſubverſion of the Law (eſpecially ſuch a ſubverſion) be

leſs

eſs then treaſon againſt all the Engliſh Nation? But truly Sir! if Mr. *Lilburn* ſhould deſire that Iudges ſhould be expoſed to ſcorn, becauſe commonly Gentlemen by birth, and honorably educated, I know none that will agree with him in that, nor can I believ it to be his deſire, that is known himſelf to be a Gentleman born, honorably extracted, Civilly bred, martially diſciplin'd, and very rationally endowed beyond the capacities of ordinarie Lawyers. For learned, vertuous, and upright Judges howſoever born or bred, are to be honored for their vertue, becauſe *Honos eſt virtutis præmium*, Honor is the reward of vertue, and the better their birthes, and

educations-

educations be, the more fair and fortunate are their Ornaments: but *Quamvis Cæsareos enumeratis Avos*: though descended of *Cæsar*, and educated in his Court: They are not all of *Israel* that are of *Isaac*: And golden Calvs are not to be adored. And if corrupt and vitious, you say Gods strict injunction obligeth us all to reprov sin whereſoever we finde it: behold how you contradict your-self, when you would have all Iudges, becauſe wel-born, becauſe well bred (though as wicked as *Pilat* or *Caiaphas*, as you say elſwhere) to be honored by all men: And yet you would have ſin to be reproved by all men whereſoever they finde it, *oportet mendacem*

esse memorem: recover your self by som distinction, or reason of policie, or elſ you are faln deep: *Tende manus Solomon, &c.* I remember you ſay *Jehojada* did forbear *Athalia* untill he gained more abilitie, and better opportunitie to accompliſh his deſires against her; I conceiv then you would have none to reprov Judges but your ſelf; nor will you, till you have more advantage of them then you have yet; ſo the reſpit you give, is but till you have more advantage againſt them; not unlike that Jeſuiticall *tenet*, which *Ignatius* never taught his Diſciples, but they learned it of his Maſter the devil: And therefore let the King of *Spain* take heed of it,

for the Pope and they wait but opportunitie to ſwallow his Catholick Majeſtie into his holineſs bowels, when they preach one *vicar* in earth for one God in heaven: And let Judges take heed of your flatterie which they may diſcern by your obligation, to reprove ſin whereſoever you finde it; and by your forbearance to reprove Judges(though never ſo ſinfull) untill you get opportunitie, and by your aptneſs to fall down and worſhip them, all without diſtinction of good or bad; when ſom of them know themſelvs no worthier to be worſhiped then he that our Saviour bad get behind him. And what ſhall they be the better for your reproof, if they dye before they have

have it? when you ought to ſpeak, *de mortuis nil niſi bonum*; nothing but good of the dead; therefore *Paul* more graciouſly reproved *Peter* to his face, when and where he found him faulty. As for Jurors placing at the Helm becauſe mechanick, *&c.* you touch not Mr. *Lilburn* for his Jurors (as all others in *London* ought to be) were impanneled by the Sheriffs of *London*, or their ſecondaries, who knew them to be honeſt lawfull men, ſuch as their precept required, and had the Judges any cauſe to ſuſpect, refuſe, or chang them, they had done by them all, or ten at leaſt as they did by one of them, take in others for them: And you ſay that Mr. *Lilburn*

excepted against them all, and desired to be tried by a Jurie of *Surrey*, where he lived when the Fact was supposed to be committed, (and if by him, liklieſt to have been there) where a Jurie might be had of no mechanicks, but God, who (as you say elſwhere, and that truly, as the devil, to be beleived in more, useth to tell som truths) is present in all Courts, was really, though not visibly present there, and had fore-ordained better for his servant, then he knew how to desire; A Jurie of Mechanicks, whose persons or Estates I know not, but their carriage and Resolution in that matter declare them knowing and understanding Men, Confirmed in their

their Verdict, first by God himself then doubtlesly not orely present in th: Court, but in their hearts and consciences: And afterwards by the *Councell* of *State* by assent of *Parliament*: A President for Jurors, and a memorable example of undantable, immovable, consciencious Judges of life and death, for the present, and all future ages to imitate: yet traduced by you, and in them God himself the Author of the work, and the State and their Councel Cooperaters therein. And no mervel for al that, since you cannot be content to calumniate all that had a hand in the matter, but also the generalitie of all the constant Inhabitants of all Cities and Corporations

rations in *England* and *Wales*, of whom not one in a Million, ever knew Mr. *Lilburn*, or heard of his Cause, all Mechanicks: For what Trade, or mysterie of Merchandize can be, but hath its original from som handicraft? What Merchant so easie or carless, but somtimes useth the help of his own hand, or servants to measure, or weigh his commodities, for which he venturetth his life, or others, and his Estate to boot, to fetch them from the Indies, and why should he scorn to put his finger to retail them to his customers by true weights and measures? And so I conceiv writing is but an handi-craft taught a Lawyer before mooting, and necessarie to

be

be used by him when he is a Judg, whose (dutie as the Lord *Cook* upon the 29 *chapt.* of *Magna Charta* saith, is, *decernere per Legem quid sit justum*: to descern what is just by the rule of Law; and so to make the Law his rule, his line, his measure, his weight, his yard and ballance, which (saith the same Author in the same place) is called *Right it self*, And *Common Law*; because it judgeth common Right, by a right line, which is the Judg of it self and its oblique. And in another sense (saith he) the *Law* is called *Right*, because it is the best Birth-right the Subject hath, whereby his goods, lands, Wife, Children, bodie, honor and estimation are protected

tected from injuries, and so a better Inheritance cometh to everie one of us by the Law then by our Parents: but when appropriated by Lawyers to their own construction and benefit, how is it to be called common Law?) and when a Commissarie judg like Pluto's Radamanth, maketh his will his Rule and line, and thereby squareth and measureth the Law as he pleaseth, and as *Virgil* discribeth him: *Grosius hic Radamanthus habet durissima regna, &c. Castigátque Auditque dolo, subigitque fateri leges fixit precio atque refixit, &c.* First he punisheth, then he heareth and compelleth to confess, and so maketh and marreth Laws as he pleaseth for his profit:

profit: ſuch are the Commiſſaries I deſire to reprov, and you to flatter: but I wiſh them to obſerv *Cryſippus* his Picture of Juſtice deſcribed in a Latin Diologue thus, *viz.*

Quæ Dea? Juſtitia: at quid torva lumina flectis?
Neſcia ſum flecti, nec movcor pretio.
Unde genus? Cœlo. Quite genuere Parentes?
Mî Modus eſt genitor, clara fides Genitrix
Auriũ aperta tibi cur altera, & altera clauſa eſt?
Una patet juſtis, altera ſurda malis.
Cur gladium tua dextra gerit? Cur læva bilances?
Pouderat hæc cauſas, percutit illa reos.
Cur ſola incedis? quia copia rara bonorum eſt;
Hæc referunt paucos ſecula Fabritios.
Paupere cur Cultu? Semper juſtiſſimus eſſe,
Qui cupit, immenſas nemo parabit opes.

Engliſhed

Engliſhed by me thus.

What Goddeſs art thou? Juſtice: why ſo ſtern?
No force ſhall make me bow; nor brible me yearn.
Whence ſprung? from heaven. What parents gave thee breath?
Indifference was my Father; Mother, Faith.
Why open'ſt one ear, ſhutt'ſt the other ſtill?
One hears the good, the other's deaf to ill.
Why right hand ſworded? ſcald the left appears?
One weighs the Cauſe, the other cuts guilts ears.
Why art alone? becauſe few good there be;
Scant one *Fabritius* in this age we ſee. Why

Why poor in Robe? becauſe
who would be juſt,
No vaſt eſtate or Wardrobe
purchaſe muſt.

But I obſerv that as the meaneſt handicrafts man, when he groweth rich, turns Merchant, that he may live Brazier, and gain more by buying and ſelling merchantable Commodities, then by his labor, yea, and the craftieſt Merchant of all; or as lately the pooreſt Schollars being attained unto Wealth, became Biſhops by the ſame means, and for the ſame reaſon; yea, and the preciſeſt formaliſt of all, ſo the ſimpleſt mooter in the Inns of Chancerie, being being paſt his Apprentiſhip, admitted to the bar, and but a botching Jorneyman in the trade

trade of Law, furniſhed with
money friends and fortune,
proceedeth Sergeant at Law,
and aſcendeth ſom Chair, or
Bench of Judicature in a day,
and declareth himſelf preſent-
ly the Pragmaticaleſt Judg of
all, yet but a Commiſſarie
Judg, ſuch as you extol in the
generall, and I except againſt
in ſom particulars, as for mak-
ing the Law a mercenarie
trade, or a merchantable
commoditie, which ought to
be free and liberall to all men;
and in aſſuming a Maſterſhip
therein, whereas he is and
ought to be but a ſervant to
the Common-wealth; yea
even a Clerk (though you
ſeem to repine at it) to ſay
Amen, *viz.* to pronounce his
Maſters aſſent to the verdict

o

of *Jurors* who by their ordinarie Iuriſdiction are the abſolute Judges of their Countrie, as before is proved. Yet ſhall I be content to follow your Follies a little further for your better ſatisfaction touching Mechanicks, who buy and ſell but what are vendible and merchantable wares, and lawfull for them ſo to do, which if by unreaſonable penniworths, their reaſonable Cuſtomers may take or leave as their occaſion requires, and reaſon guides them: whilſt Lawyers Clyents muſt buy ſuch Law as they can finde, at ſuch rates as they can get at *Weſtminſter*, or periſh in their Cauſes: different from thoſe times, when Mr. *Horn*, and others tell you, they had

better

trade of Law, furniſhed with money friends and fortune, proceedeth Sergeant at Law, and aſcendeth ſom Chair, or Bench of Judicature in a day, and declareth himſelf preſently the Pragmaticaleſt Judg of all, yet but a Commiſſarie Judg, ſuch as you extol in the generall, and I except againſt in ſom particulars, as for making the Law a mercenarie trade, or a merchantable commoditie, which ought to be free and liberall to all men; and in aſſuming a Maſterſhip therein, whereas he is and ought to be but a ſervant to the Common-wealth; yea, even a Clerk (though you ſeem to repine at it) to ſay *Amen*, *viz.* to pronounce his Maſters aſſent to the verdicts of

of *Jurors* who by their ordinarie Iuriſdiction are the abſolute Judges of their Countrie, as before is proved. Yet ſhall I be content to follow your Follies a little further for your better ſatisfaction touching Mechanicks, who buy and ſell but what are vendible and merchantable wares, and lawfull for them ſo to do, which if by unreaſonable penniworths, their reaſonable Cuſtomers may take or leave as their occaſion requires, and reaſon guides them: whilſt Lawyers Clyents muſt buy ſuch Law as they can finde, at ſuch rates as they can get at *Weſtminſter*, or periſh in their Cauſes: different from thoſe times, when Mr. *Horn*, and others tell you, they had better

better brought to their own doors with little charge, and leſs pains: and when to ſee it ſo adminiſtred and executed by Sheriffs, Recorders, and other Countrie and Citie Judges, that were the Kings Commiſſaries in their reſpective places, and derived their Commiſſions and authorities as well as any at *Weſtminſter* ever did, or can, from the ſame fountain, *viz.* Kings and people, ſo that (as the Lord *Cook* ſaith) *Omnis derivata poteſtas habet eandem juriſdictionem cum primitivâ*: their juriſdictions were the ſame within their precincts, as the Kings at larg; yet Kings went along with their Commiſſaries, or rather Deputies, for their own Bench, from Countie,

Countie to Countie, once every seven years, to oversee, and examin how Justice was distributed to their Subjects, and to give their Royal assents to the verdicts of Juries which were not assented unto by the ordinarie Countrey Commissaries since the last Size: which Commissioners therefore onely, and not the Countrey in generall, (as now to Assizes, *nisi prius*, and Gaol deliveries) or so much as the Jurors were called, or troubled to bring in any account of what they had done since the last Eire, but those Commissarie Officers onely for that they had not done were charged to bring in their Records, whereupon such verdicts as were found unassented unto and compleated

compleated by them, mig ear
be aſſented unto and perfecte ier
by the King himſelf, or hi nd
Commiſſarie Judg, or depu om
tie, called his chief Juſtice o *M*
his own Bench; or by th nd
Juſtices in Eire, who wen Cha
ſomtimes without the King, o whi
any of his Juſtices, who whe hal
and where they came, ha Cou
the prerogative of all Court *ceri*
during their ſtay, which wa lid
but for ſhor t Seſſions) & gave
forth proceſs of execution up-
on them, and medled not
with any mors Cauſes, but
onely within his verge, by the
verdicts of Iurors inhabiting
within the compaſs, as you
may read in the *Mirror*,
Lambert and others at larg.
And why now all muſt come
to *Weſtminſter* four times
yearly;

early; and no cauſe, wh e-
ner over or under 40*s.* can be
nded in any part of the King-
om but there; for if under
Mutuatus ſhall lift it over,
nd all under colour of that
Chapter of *Magna Charta*,
which ſaith Common Pleas
hall not follow the Kings
Court (as his *Bench*, *Chan-*
erie, and his *Exchequer* then
id and ever might) but ſhall
kept in a certain place;
ch came to be *Weſtmin-*
-Hall ſince it was the
gs pleaſure to have that
art (which was their pre-
tive ſuperindendent Court
Common Pleas, *viz.* for
eals in ſuch Pleas, by ſuch
ound themſelvs grieved by
tialities or delaies of their
untrey Commiſſaries, un-
to

to that Court) kept in the own Hall, of their then dwelling Mansion, as it continued untill *White-Hall* came into the hands of King *Henry* 8 by Cardinall *Woolsey* his delinquencie, which (pleasing him better) he made his Court and gave not onely *Westminster-Hall*, but also all the Pallace of *Westminster* (that his Ancestors from *Rufus* to him, contented themselvs to dwell in) to be the Consistories of all his Courts, when he found it chargable to remove them, though he and his successors gained least by them. But now no King being, no Court that depended upon his Person, or his deputies, or Commissaries, in respect of their prerogative Judicature

dicature reputed transcendent remedies for som transcendent Injuries committed and suffered amongst the people, can be necessarie, because triennial or more frequent Parliaments, and speciall Commissions of *Oyer* and *Terminer* to be granted them; when and as their Causes require, may better supply them and with more speed and Justice, and less charge and expence finish their Causes at or near their homes, then all, or any the Courts at *Westminster* ever did or could. But if the *Keepers* of *Englands Libertie* be pleased to have any one or more Courts, or Judges to be superintendents above all others, besides Parliaments, and speciall *Oyers* and *Termi-*

ners, Then they are to be desired, to be also pleased to allow, and pay them sufficient Wages at their own cost, and not the peoples, as Kings did when their Commissarie Judges were to have of never so many Parties in one Cause, but 12^{d} to be divided amongst them, and that after the end of the suit, and not before: And a Pleader (though a Sergeant at Law) was sworn to plead as well as he could for his Master (now called his Client, and counted his servant) and to abuse the Court with no falf, or more delatorie then necessarie Pleas, And was to have for every such Plea pleading, but sixpence; and for his sallarie or Wages, for his attendance in every Cause

from

first to last, beginning to end, as the Court should think fit, considering the greatness of the Cause, and merit of the Pleader, *&c.* as you may read in the *Mirror*, *p.* 64. Now to return to your Mechanicks, commonly (as you say) brought up illiterat: surely it cannot be unknown to you, that there are most commonly as many (if not more) Masters of Art in *London* that use Trades and handicrafts as practise Law at *Westminster*, and compleater Retoritians, Logitians, Musitians, Arithmetitians, Geometricians, Astronomers and Phisitians, all which are the severall liberall sciences, and the very Encyclopedie and summarie of all good and necessarie Arts and

learning: How then do you make it your consequence, that if all Commissarie Judges be not adored as you would have them; all learning and gentle extraction must be debased, but ignorant and fordid birth must ascend to the Chair? as if there were no learning but in Pedlers French and Law-Latin, the very disguises of the Law, which hath no such need of them, as a foul face of a Mask, or an hangman of a Vizard; but contrariwise, much necessarie to be rid of those Curtains, which hide both the beautifull Shape, and material substance of it, from us, that it may appear (even to our understandings) more gloriously, more learnedly in plain English

liſh, then in that Canting more obnoxious then that of beggars, which would but cheat us of neceſſaries to ſuſtain their lives; whilſt *Law-Canters* cheat both us, and them, of all our livelihoods and liberties, to ſurfet themſelvs with ſuperfluities; by making us all ſtarvlings, pined with that extream of wants, the want of *Juſtice*: for put the caſe that thoſe *hotch-potch French*, and Quelquechoſe Latin were baniſhed, and the Law rendred in Engliſh (as Scriptures are which were hidden from us by Prelats, as our Law by Lawyers) would not all learning, and argumentations in Law be as neceſſarie for the continual preſervation of mens lives and e-

eſtates, and therefore continued in Engliſh as Sermons in Pulpits, and diſputes in Schools and Univerſities, requiſit for the ſalvation of our ſouls are? Naywould not School-Maſters (to read and teach the Law in common Schools) beas neceſſarie in *London*, as Students in the Inns of Court, or Chancerie, or as ſuch have been (as you may read in the Lord *Cooks Preamble* upon *Magna Charta*) and did read upon *Magna Charta*, when it was read twice yearly in Churches, and 4 times yearly untill full Counties, untill the ſame King that aſſented to the making, and was ſworne to the obſerving of *Magna Charta*, in the 9 year of his Raign,

Raign, by the advice of his Chief Justice *Hugh d'Burgo* (whose advice and his followers ever led Kings to ruine, and Subjects to hazards) by his special Writ in the 19 year of his Raign, prohibited the said publick reading, and teaching, (as you may read in the same place.) Did not the *Eunuch* understand the Language he read, yet wanted *Philip* to interpret the meaning? And did not God send *Philip* to that end? So no doubt (although the Law be Englished) the most part of English people will be *Eunuchs* in their understanding of it so fully as they ought, untill, and but whilst there be *Philips* to expound it? for it is too great a Studie for men

otherwiſe imployed, to be expert in; to reſolv Cauſes which you call Intricate, As you would make it for Coblers to dilucidate texts, which many call hard Scriptures: And who can doubt it to be Gods ſpeciall gift and vocation in Law to ſom, to be juſt and learned Lawyers, as to others to be ſincere and Orthodox Divines, while the world ſhall conſiſt of bodies neceſſarie to be regulated, as of ſouls to be diſciplined. And then for your gentle extractions, may not they be as they were ever wont (ſince Marriages were ordained in Heaven, may not a Judg beſtow his daughter upon a Citizen, and a Citizen his upon a Judg, or an Earl, (as we have ſeen uſuall): but by

by your allegation that there is a general diſeſteem of gentrie more now then from the beginning of the World, which Mr. *Lilburn* can be no cauſe of: It is manifeſt you charge the preſent Government as faultie for ſuffering ſuch a diſeſteem to be among the people, wherein you do but traduce and wrong the State, that neither deſire, nor countenance any ſuch thing, but when gentrie (for the moſt part) grows degenerat, and nobilitie debaſeth it ſelf, (*Corruptio unius eſt generatio alterius*: when Lords turn Boors and ſimplicians, let Clowns turn Lords and Politicians; And let him that will carp at the Viciſſitude of things, which divine provi-

dence hath ordained, blame neither State in generall, nor perſons in particular, but conceiv rather, that *Ablatâ Cauſâ tollitur effectus*; when vertue faileth, the honor followeth; when God took his holy Spirit from *Saul*, both Spirit and Majeſtie were tranſferred to *David* in a larger meaſure; and therupon be you further anſwered by an Heathen: *Tempora mutantur, et nos mutamur in illis*: Times are changed, and we therein: By whom, is manifeſt; but how, and when, are *Arcana Dei*: Forbidden ſecrets, imputable by ſuch as ſuffer therein, to their ſins; and therefore you ſhew your ſelf in this point, not an *Alter Cato*, but an *Altercator*: not a wiſe

wiſe man but a wrangler: Whilſt you might obſerv further, that God never took his holy Spirit from whom he gave it, but for their abuſing, or not uſing that power which accompanied it, as they ought, whereby they provoked him, as when he ſaid: *It repenteth me that I have ſet up Saul to be King*: 1 *Sam* 15. 11. When *Saul* ſpared *Agag*, and his fat Oxen, *&c.* which God commanded to be deſtroyed: So when *Englands* Kings and Lords made wrong uſe of their Judicature and power which he and his people had given them; was it not time for God himſelf, to juſtifie himſelf and his people? When they and their ſubordinate Judges connived together with

with such men as God described by his Prophet *Jeremiah* to be his enemies, saying: *Among my people are found wicked men, they lay wait, as he that setteth snares; they set a trap, they cath men, and as a Cage is full of birds, so are their houses full of deceits, therefore they are become great and waxen rich; they are waxen fat, they shine; ye, they overpass the deeds of the Wicked, they Judg not the Cause of the Fatherless, yet they prosper; and the right of the needie do they not Judg: shall I not visit for these things (saith the Lord)? shall not my soul be avenged upon such a generation as this? Jer. 5. v. 26.* were there ever in *Israel* such waylayers, snare-setters, trap-setters,

ſetters,& men-catchers, as were the Scribes& Phariſes,who concealed the law(wch God made for his people) from his people &aſſumed the expoſition thereof to be proper to them ſelvs only, and thereby ſnared, trapped, and caught the people as they pleaſed; made way for themſelvs to becom great, rich, fat and ſhine; which expoſition was but of their own naturall language, which their Countrey-men underſtood, or might as well as they, yet our Saviour called them *a generation of vipers, &c. that laid heavie yoaks upon their brethren, &c.* Did not our Judges and Atturneyes in *England* exceed them, that not onely concealed the Laws of God, and

and this Land, made for this people, from this people, though partly published in English (as our Statute Laws are) whereof nevertheless they assume the exposition to themselvs; howbeit rational English-men may understand them as well as they; but also barbarized that part of our Law which is called, and ought to be common, so that they have made it proper to themselvs onely, because no other linguist (howsoever learned) can understand it, but onely they that made it such for that purpose, whereby they snare, and trap all men as they list, and their Legion Gaolers, Catch-poles, setters, &c. (who glorie even in those names, and are rich

rich by thoſe meanes) catch, and impriſon all Debtors, and moſt of them to death, contrary to all Law, but what they made and procured againſt *Magna Charta*, and maintain (though repealed) againſt the *Petition of Right*, and above 20. Statutes, all Confirmations of *Magna Charta*. Do the Judges of *England*, judg the Cauſe of the Fatherleſs? the Orphans of *London* can tell you no. Do they judg the right of the needie? the Widows, the Fatherleſs, and all that ſue *in formâ pauperis*, nay they that beg, rob, and ſteal to boot, with thoſe that ſtarv for need, can tell you no. And ſhall not God be as good as his word? *Shall not his ſoul be avenged upon this generation?*

tion? yea, no doubt, and therefore Judgment began at the Houſe of the Lord, which King, Lords and Biſhops, that parted the peoples ſpoyls, neglected *Achan* and his Wedg; made all covetous gripers more griping, *Regis ad exemplum*; and all men more offenders becauſe the greateſt moſt thrived, and were never puniſhed. Therefore Kings, Lords, *&c.* whoſe extractions for Gentrie were ever eſteemed beſt; And many Biſhops well deſcended, laying aſide their vertues, who ſhall blame God for laying their honor in the duſt? but let all that love the preſent State, and Government of *England*, wiſh the Keepers of the Libertie thereof, take heed

in

n time they do not the ſame hings themſelvs, they have ondemned in others, of whoſe puniſhments God hath made them his Inſtruments; for we are ſure that the *Judgment of God is according to truth, againſt them which commit ſuch things*; 2. *Rom.* 2. Let them not overpaſs the deeds of the wicked, by not puniſhing them which they finde to be ſuch, yea, and eſpecially the wickedeſt of them, even ſuch as none can be ſo wicked; Judges that perſevere in injuſtice, who by ſuffering ſuch offenders, becom not onely the committers of their offences, but ſuperlative offenders, whom God hath none above them to correct, but himſelf, which he therefore

therefore usually doth, b
raising Wars against them, an
enemies unto them, as we
of their own Nation, na
their own Children, as others
and as well Insideators o
their wayes to, and at thei
dores, and assacinates in thei
houses, as adversaries in the
Field. And as for your sel
Sir, may not we say of you,
as *Jeremie* said of som in hi
time: *A wonderfull and hor-
rible thing is committed in the
Land, that Prophets Prophe-
sie falsly, &c.* For what do
you els when you say, you
are obliged, as all men are,
to reprov sin whereſoever you
finde it, and yet you justifie
and magnifie such Judges as
the true Prophet reproveth.
Take heed therefore how you
use

ſe your *tertiam Linguam* (as *Walterfenſis* cals it) which by lying and ſlandering, either by way of *adulation*, as you do the Judges, or *detraction*, as you do Mr. *Lilburn*: the partie that ſo doth, abuſeth three perſons at once, *viz.* the *Speaker*, the *hearer*, and he that is *ſpoken of*: And ſuch tongues (ſaith the ſame Author) had the Prophets that were ſlain; *Doeg*, that was rejected, and *Saul* that ſlew himſelf: And ſuch tongues St. *Bernard* cals triplicit, for the ſame reaſon; and ſaith, that ſuch Sycophants as uſe them, have the *Devil* in their tongues, and *Auditors* in their eares, and a *conſenter* in their hearts. And for ſordid births (except I knew yours) I know not

not what to say to you; but I suppose the tree may be known by the fruit, and well do I know, that as *London*, and other Cities, ever had Mechanicks of as great and noble extractions, as *England* yeilded, so the Barrs at *Westminster* ever hitherto had long-roabed men of as promiscuous originals, as humanitie afforded: And of *London* births at this present, there be vertuous and honorable Chair-men at *Westminster*, as *è converso*, there be of Judges sons, hopefull Apprentises in London. Where you finde *Coblers* in Pulpits, it is because the *Divines* are out. And where you say Plow-men ride to Sessions instead of Justices of Peace; there can be

no

no Sessions without both, *viz.* Knights or Esquires to be Justices, and Plow men, (which are the best kinde of free men in *England*) to be Jurors. And as Jurors are there, and elswhere the more real Judges, so is their calling far antienter, for *sokmen* were long before Justices of Peace in *England*; And soccage was ever a better tenure then *Escuage*, or Knights service. But a Justice of Peace, and a Plow-man do well together, not onely in Quarter-sessions, but in constant houshold; and the eminentest, best extracted Knights and Esquires, as they have ever been the best houskeepers, so they have been the bountifulest cherishers and countenancers of

of their Plow-men in the
moſt neceſſarie calling for th
Worlds ſuſtenance: and hav
not ſcorned to put their hand
to their own plows, as King
and Lords have vouchſafe
their names, and aſſociacion
to their Subjects, in thei
trades and handicrafts, t
countenance, commerce an
traffique.

So not finding any more o
your Pamphlet neceſſarie fo
me to anſwer, as this muc
was, for my reaſon given yo
in the title page thereof.
bid you heartily farewell.

From my lodging in Mr. *Mondays* houſe upon *Clerkenwell-Green*, *July* 1650.

FINIS.

Mr R. Vaughan *of Grays-Inn in his Answer to Mr* Peter's *book* (*entituled* Good work for a good Magistrate) *is very sparing of his labor, not confuting by strength of argument, but referring the Reader* pag. 13. *to the Philezers reasons, which hee say's are strong and plausible for the process of Arrests and against Summons: But hee forgot to refer you likewise to this Answer to those Reasons: where Mr* Peter's *Proposals are clearly vindicated, and the Philizer's contrarie Reasons so confuted and overthrown, that neither Mr* Vaughan *himself, nor the wise Assertors of those sillie Reasons, durst ever Answer.*

THE CRIE OF BLOOD:

OR,

A true Answer to those Thirteen false Reasons of the Filicers, Attournies, &c. practising at WESTMINSTER, for the maintenance of the Capias and Arrest of men's bodies for Debt.

Wherein is shewed the benefit of the use of SUMMONS, rather then of ARRESTS; which commonly caus much delay, and excessive charges.

Whereunto is added two Cases:

1. Concerning *Justice.*
2. Concerning *Tithes.*

By *John Jones* of *Neyath, in Com. Brecon.* Gent.

LONDON,
Printed by *William Du-gard*, for *Thomas Matthews*, 1651.

To his Excellence
OLIVER CROMWEL,
Lord General of the puiſſant Armie of the PARLAMENT of *ENGLAND.*

Renowned Sir!

AS your Command is general, ſo are your cares, troubles, ſufferings, actions and endeavors all

general, for the general good of this Nation in general: Nor is the caſe and number of the Priſoners for Debt in *England* and *Wales*, for whom you have been, and are a ſollicitous, although yet improſperous mediator to the Houſ of Parlament ſo ſmall a particular, but that as the prudent King *Philip* of *Macedon*, who accompted his bodie but ſmall to the reſt of his endowments, and knew

it

it to be mortal, desired to be dailie remembred he was mortal; to the end he should not more glorie in what he had well done, than persevere in well-doing, and finishing his wel-begun enterprises; that so he might immortalise his fame, and illustrate the faculties of his immortal virtues, that posteritie might speak of him, not like *Pythagorists* of their master, *ipse dixit*, but *ipse*

fecit; nay more, *ipſe perfecit*. I hope likewiſe your Excellence will not be offended with me one of the heartieſt, though of the meaneſt of your Honors wel-wiſhers, to mind you of the neglected miſeries of the ſaid priſoners now, more then ever, likelier to be continued and increaſed then relieved, or abated by the generation of Lawyers overſwaying the mildeneſs of thoſe

Par-

Parlament Members that have long promiſed you to be merciful to ſuch Priſoners, and to haſten their enlargement out of their wrongful impriſonments; which, if you ſee performed, as hereafter is deſired, will be an action of no leſs Divinitie then Charitie, and no leſſe profit then Honour to your ſelf in particular, and the Common-wealth in general. The Officers in

Law have latelie preſented the Parlament with 13. Reaſons for the maintenance of Arreſts and Impriſonment for Debt, contratie to *Magna Charta*, and the *Petition of Right*, as I have eſtſoons proved elſwhere, and repugnant even to Reaſon it ſelf, as I have here following farther declared in anſwer to their ſaid Reaſons in the Priſoner's behalf; in which, and whoſe names I likewiſe

humbly

humbly dedicate the ſame to your Honor, with a copie of the ſaid Reaſons hereunto firſt annexed as it came to my hands, and next an anſwer to their preamble: and afterward particular anſwers to their particular Ratiocinations: and laſtly, the Priſoner's humble Petition to your Honor; all which I could not have readie before Colonel *Pride's* departure (whom God proſper)

proſper in your Service, and the Common-wealth's, whoſe welfare hee preferreth above all worldlie ends) but have now preſumed to ſend them unto you; beſeeching your Honor that your Lieutenant General, Colonel *Fleetwood*, (a man of no leſs worth then eminence) or ſome other like publik ſpirit may act in this matter, and others of the like nature in your Honor's abſence

abſence according to your directions, and the people's neceſsitie from time to time, that no opportunitie bee loſt, and more lives of Priſoners bee ſaved, and your care thereof to the uttermoſt expeſſed.

The Lord Preſident of the Council of State, and Col. Martin *are conceived to bee no leſs willing then able to procure ſuch a Commiſſion as the Petitioners deſire, and Law would afford, if your Honor would be pleaſed to write to them, which I humblie ſubmit to your Honor's conſideration.*

So wiſheth your
dailie Orator,
John Jones.

REASONS for the continuance of the proceſs of Arreſts, for the good of the Common-wealth.

THe proceedings by waie of Arreſt at the King's Suit; and in all actions that were Quare vi & Armis, *between the ſubjects, are as ancient as the Common Law of this Land; but the proceſs for the people in other Actions, was Summons, Attachment, and diſtreſs, which Courſ, as to recover Debts, did prove dela-*

torie,

torie, and manie times fruitleſs, to the great hinderance of Marchandiſe, and other Commerce in this Nation; and therefore former Parliaments did provide as appears by divers Statutes) the writ of Capias *to an Arreſt as a full remedie, and moſt neceſſarie for this Commonwealth.* 3 Rep. 12. *Sir* Will. Herbert's Caſe. 52 Hen. 3. in Accomp. 1267. 25 Edw. 3. c. 17. An. Dom. 1350.

1. *Becauſ attaching the perſon doth ſecure the Petitioner's debt, either by preſent paiment, or cauſing other ſatisfaction, which the proceedings by ſummons do not; and as a man will give all for his life, ſo hee will do much for his libertie.*

2. *When*

2. *When men are deteined upon the Arreſt (which is but ſeldom, for few are arreſted in compariſon, and then) it is ordinarilie but for a ſhort time, until they have given ſecuritie to anſwer the Action, or ſom warrant to appear.*

3. *If men may not proceed by Arreſt, it will much hinder Trade, and other dealings; for men will not adventure to truſt, where there is much libertie for the debtor to ſtand out; and Merchants, and Tradeſmen manie times look upon the Perſon as the beſt ſecuritie, and the remedie by Arreſt, the ſpeedieſt to gain their debts; without which Trade will neceſſarilie decaie.*

4. *The*

4. *The process to Arrest, doth end most suits before the Person bee attached, and before appearance, as experience doth shew; for when men will not regard a summons, they will take cours before they will suffer an Arrest,* 52 Hen. 3. cap. 23.

5. *Men will take occasion from the summons (as formerlie they have done) to be gon from one Countrie to another, and to make awaie their estates, and though the Plaintiff know it, yet hee cannot help himself, which the Arrest doth prevent: And the Law-makers of this Land have ever held it more reasonable to provide for the satisfaction of the Creditor, then the libertie of the Debtor.*

6. England

6. England *is an Iſland compaſſed with manie Port Towns, where there are manie Merchants, and men that go abroad, and trade by Sea, who buie wares upon Credit; there wil bee continual occaſion of ſuits againſt divers perſons of this ſort, who will not much regard the ſummons, but will betake themſelvs, and their eſtates, to Sea again, and the Creditor can have no remedie; whereas if the parties maie bee Attached, they wil make ſatisfaction.*

7. *Whereas divers tradeſmen ſubſiſt upon their Credits, and take up great ſummes of Monie, for which they can give no other ſecuritie then their per-*

persons, and by advantage thereof, manie times attein to great estates; but if the proces of arrest bee taken awaie, they can hope no more to bee intrusted, which apparentlie tend's to their ruine.

8. *And that proceedings by Arrest maie not seem at all cruel, or unjust; wee find both presidents, and approbation of the like, and greater severitie in the Old and New Testament; as selling the Debtor, his wife and children, and all that hee had to make paiment, and of taking, and casting into prison for debt, until the utmost farthing were paid: And yet this cours was not condemn'd amongst the* Romanes, (*so much they loved Justice*)

Juſtice) *nor by Chriſt himſelf in the New Teſtament, who bid's agree with thy adverſarie before thou com to the Judg: And God, who will have that which is right to be don among men, was verie careful that his own people ſhould paie their debts; and therefore if anie were indebted, though they were poor, and could not paie, yet the Creditor might take the Debtor, and his Children to bee his ſervants and bond-men; and might take their Garments from them, and the bedding whereon they did lie, from under them, which was a far greater puniſhment then our light Arreſts; for the Priſon, with us, is but a gage, or pledg, until the*

the defendant take course to answer the Action. Mat. 5. 25. Mat. 18. 30. 2 Kings 4. 7. Levit. 25. 39. Prov. 20. 16. Prov. 22. 27.

9. *Men ordinarilie begin Suits upon necessitie, and Debtors generallie are called upon before anie suit is commenced: which indeed is in the nature of a summons; but yet neither this, nor the writ of summons doth drive men to take anie course, until the process of Arrest issue forth, being more compulsorie, and a more speedie remedie for the Creditor, then the milde, and gentle summons was found to bee, (as appear's by sundrie Statutes,* 19 Hen. 7. cap. 9.) *which are more provisional for the*

the Creditor, who is alwaies out of his monie, then for the Debtor, who ſeldom well ſpent it, or hath care to repaie it.

10. *And if by anie new waie, upon meer ſummons onlie, and default, Judgment ſhall bee had before appearance, (which courſe the Law doth not countenance) then the grand pillar of our Common Law, the Trial by* 12. *Men (which the Law doth much honor and favor) will fall to the ground; for much buſineſs will reſt whollie upon the Affidavid of a ſummoner, or the like, which will bee a means to multiplie ſuits, and is an unſure courſe, and will induce more perjurie into this Nation, then our Law would ever before this time*

give

give an inlett unto: And therefore former Parlaments providing against delaies by ſummons, did not give Judgment upon default, but found out a ſpeedie remedie by Arreſt to bring the Defendant to his anſwer.

11. *By the Law* a Capias ad ſatisfaciendum, *doth not lie, but where there is* a Capias ad ſatisfaciendum *firſt: and there is as great reaſon and equitie for the Arreſt to anſwer before Judgment, as for the Arreſt to ſatisfie after Judgment, becauſ the* Capias ad reſpondend. *doth compel the defendant to take notice of the action, to which hee maie plead, if hee will, and doth ſecure him that*

him that hee ſhall not ſtart, ſo that when the Capias ad ſatisfaciendum *doth iſſue forth, there is left no color of juſt exception for the defendant: but on the other ſide, if Judgment ſhall bee entred upon a ſuppoſed ſummons, there will bee manie grievous complaints, and the ſucceeding evils will hardlie bee redreſſed; manie will bee undon, and ſuits will bee multiplied.*

12. *Experience doth ſhew that the benefit of the proceſs of Arreſt hath been verie great to this Commvn-wealth; and all the Statutes have mentioned it from time to time, and have given a larger extent unto it, then be-*

fore it had, and none have abridged it in anie thing, which is now of great antiquitie, having been for manie Ages the best remedie (for the People to recover their Debts, and to compose other differences) that our Ancestors could devise. Anno Dom. 1267, 1350.

13. *Lastlie, The subtiltie and subterfuges of Debtors having made the process of Arrest no more necessarie then formerlie, there will be reason rather to add to the remedies provided for the Creditors in former Parlaments, then to diminish them: And if ãnie inconvenience by this so necessarie*

ceſſarie a courſ happen to the Debtor, yet will the taking it awaie prove more prejudicial to the Plaintiff, who is the partie injured, and in reaſon his caſe to be preferred, and favored.

THE CRIE of BLOUD.

THE first part of this Preamble is far from the matter: Wee confeſs, Arreſts by *Capias*, without Summons, for Treaſons, Murthers, Felonies, and Treſpaſſes, don *Vi & Armis*, or *Contra pacem*, or *Formam Statuti*, as Extortions, and all Frauds, and Injuſtice, dòn under color of Office and Juſtice, to bee lawful, and as antient as the Common Law of this Land; and more antient too, becauſ ſuch offences were committed before

the Laws were written, or made in thoſe caſes, or thought upon, upon, to puniſh the paſt, and prevent the future. By the Law, wee know the ſin that was before it; and by the due courſ of Law, the courſ of ſin ought to bee ſtaied or corrected. But what is this to a debtor, which groweth neither *vi & Armis*, nor *contra Pacem*, nor *contra Formam Statuti?* for recoverie whereof, againſt able debtors, the Statute of *Weſtminſter* 2. *cap.* 18. And the Common Law before that, provided remedies, the proceſs, or proceedings whereof were by ſummons, attachment & diſtreſs, (as our adverſaries confeſs) which courſ, if Antiquitie can meliorate, is far antienter then the *Capias* for debt, which they make no elder then the repealed Statute that gave it, 25 *Ed.*3. 17. which the ſame

ſame King annulled the 3. and 17. years next after, *viz.* 28. and 42. of his Reign. The delatorineſs alleged in the courſ of Summons, is a deceitful information, and an untrue report made to the High Court of Parlament; which were it to an inferior Judicature, deſerveth no leſs puniſhment, then the Informers, to bee impriſoned a year, ſilenced for ever, and fined, and ranſomed at the State's pleaſure, *Weſtm.* 1. cap. 29. 3 *Ed.* 1. For the truth is, there can bee no ſpeedier waie deviſed, conſidering Actions of Debt by Common Law, and many Statutes, ought to bee laid in the proper Countie wherein the Defendant dwelleth, and hath, or hath not wherewith to paie; where the Sheriff having his Juſtices, which is the onely proper writ for debt, is a Commiſſion to

hold plea above fortie ſhillings, and is to ſummon, attach, and diſtrein, and do execution according to the verdict of the Jurie, if in an Hundred Court, in three weeks, allowing fifteen daies, as Law requireth, between Proceſs and Proceſs; which three weeks between Court and Court, may fully afford, and that is no long delaie, in compariſon of what is uſual at *Weſtminſter:* or if in the Countie Court, three moneths, or twelv weeks doth the ſame. But if the Action bee laid in, or removed to the *Common Pleas* at *Weſtminſter*, (which ought not to bee don, or ſuffered, without injuſtice, or partialitie, proved, not alleged in the Sheriff) they cannot determine the Action under three Terms, which is not the fault of the courſ of Summons, which requireth but fifteen

fifteen daies between Proceſs and Proceſs; but the fault (more then delatorie) of the courſ at *Weſtminſter*, which requireth long Vacations between Term and Term, and removeth more Cauſes thither in one Term, or Vacation, then they can end in ſeven.

And where they ſaie, Summons are many times fruitleſs; that is never, except the Debtor hath nothing to bee ſummoned by, & ſo ought not by any Chriſtian Law, to bee looked after, but with eies of charitie. And why Merchandiſe and Commerce in this Nation ſhould bee hindered for want of a *Capias*, to arreſt and impriſon non-ſolvents to death, cannot bee truly demonſtrated by any Chriſtian reaſon, ſince all men know, that all other Nations as well Heathens, as Chriſtians, who

never admitted ſo impious a remedie to recover debts, as the *Capias*, finde no hinderance of Trade or Commerce amongſt them, but onely the Trade of Lawyers and Liers, whereof the fewer make the better Common-wealth.

That former Parlaments provided the *Capias* for debts, as a full and moſt neceſſarie remedie for this Common-wealth; and that divers Statutes affirm ſo much, appeareth to bee theſe men's additions to their former miſ-informations, and endeavors, to abuſe this Honorable Parlament: For it was but one Statute that ever provided this *Capias*, and that is long ſince repealed as aforeſaid, and ſo continueth by more then thirtie three Parlaments and Statutes. Neither doth that Statute ſhew any cauſ for its proviſion,

making,

making, beeing, or necessitie of its continuance, or hath any Preamble at all (as all necessarie Introductions of Law usually have) but pinneth it self to the Statute made for Accomptants, *viz.* Lords, Bailiffs, Rent-gatherers, and servants, that cheated their Masters of their rents, and monies committed to their trust, to collect and accompt for, contrarie to all Laws, Justice, Equitie, Mercie, and common honestie; all which they falsified, and converted their Master's monies to their own use; which to answer unto by due course of Law, they commonly durst not abide, for shame, more then for the debt, and therefore became Fugitives from their acquainance: so that the *Capias* was necessarie to staie, and fetch them to accompt with their Masters.

But

But this pinning, or relating this Statute to that, ſeemeth to bee (as Maſter *Cook* writeth thereof) the work of ſom corrupt Lawyers, Members of that Parlament, that paſſed it unexamined, except by a Committee, which they over-ruled; and that is in a few words, ſo huddled up amongſt other things, as they might bee as ſoon forgotten by the hearers, as read by the Impoſtors: which practiſe they have uſed for the unſpeakable advantage in all Parlaments that truſted them; God bleſs this from the like, and grant it bee not too late wiſhed. Howſoëver, that venerable Judge, and Autor of the *Mirror of Juſtice, pag.* 283. *ca.* 5. *ſect.* 7. condemneth this *Capias*, and declareth it to bee contrarie to Law; and ſheweth reaſons therefore, both there, and *p.* 108. where

where the Action for accompt is debated, and declared to bee mixt, in regard of the truſt and deceit of the Accomptant, deſerving therefore to bee proſecuted ſo far, as to bee forced to an accompt: but for the debt, more then hee hath wherewith to ſatisfie, the Law requireth nothing of him that hath nothing; and giveth no recoverie, nor other remedie then revenge, which God calleth his own. And both this Author, and the Lord *Coke*, in the *Third part of his Inſtitutes*, agree, that the acting and mainteining of things contrarie to Law, as Law, or lawful, is a ſubverſion of the Law, and that is no leſs then High Treaſon againſt this State and Common-wealth; which caſe is our adverſaries, whom wee hereby impeach thereof, and crave direction and

aſsiſt-

assistance, to indict and prosecute them according to the known Laws in that behalf; So far as they may not lose the honor of their Antiquitie, which they press so much for; and wee confess, that for the mysteries of its craft, it hath exceeded the Sciences of all their Progenitors in their several faculties; for in the art of men-catching, there are of them many an one, who exceed,

1. Three Bum-Bailies, who by virtue of their *Capias*, can commonly catch but one by the poll at once, nor that without *vi & Armis*, and loss, or hazard of lives, by the furie of their passions, while our Chamber-Officer can make threescore *Capiseis* to catch five times threescore persons without any danger of his own, except by the wrath of God, which few of them ever

ever feared, but are all emboldned by his patience, to attempt the catching of a whole Parlament of moſt wiſe Senators at once, to becom ſubject in themſelvs, or their poſterities, to this Purſ-net, perſwading them to father, and maintein this Baſtard *Capias*, which knoweth no difference between a Parlamentman, and another, or between his friend and his foe.

2. In the Art of Ambition, they exceed their Father the Devil, who did but attempt to bee Lord of Hoſts, whilſt theſe men becom Hoſts of Lords, and ſtill covet to enlarge their Dominions.

3. In the Art of Murthering, they exceed their brother *Cain*, who killed but one *Abel* in all his life time, and for that one offence, had the curſ of God upon him and his ſeed for ever; while

while theſe men daily murther many of their brethren with falſ Judgments, and ſolace themſelvs with Angels, defile their hands, and fill them with bloud, yet would bee heard in Parlament, when God telleth them hee will not hear them, *Iſa.* 1.15. and bid's them fill up the meaſure of their Fathers, that upon them may com all the righteous bloud of the Earth, from the bloud of *Abel*, &c. *Mat.* 23.32.35. and *Luke* 11.50,51. concluding *v.* 52. *Wo unto you Lawyers, for you have taken away the key of knowledg; you entred not in your ſelvs, and them that were entring in, you hindered:* Which Scripture, wee conceiv, may bee fitly applied to our *Engliſh* Lawyers, who have taken away the Engliſh of our Laws, which was the key of our knowledg therein; And entred not into

into the truth thereof themſelvs; and them that would, they hindered, until this happie Parlament righted us in that, ſore againſt their wils, and will as wee hope, and they fear, further right and free us from their bondage, finding that now they have filled the meaſure of their Fathers, that upon them may com, and from them may bee required all the righteous bloud of priſoners for debt, from the bloud of the firſt Free-man of *England*, impriſoned for that cauſ, to the bloud of the laſt that ſhall periſh in priſon for the ſame.

4. In the Art of Treaſon, they exceed *Judas*, who with one kiſs, betraied but one Maſter, to a death fore-ordeined by God's Providence, for the life of the world, except his deſperate betraier, and other unbelievers

believer's children of perdition; while these men by their daily prevarication, and changing their notes, since they have deserted the Canonical Organs, and Psalmistical Harmonies, to the tune of the Organical Canons, shrill Trumpets, and ratling Drums, siding with the strongest Faction in Warrs, as with the richest partie in Peace, till they have betraied three Commonwealths to manifold deaths, avoidable by the mercie of God, and Praiers of men, except these impenitents that harden themselvs in their wickedness, do stir up others to second them of seditious and implacable spirits, sons of *Belial*.

5. In the art of Impostors, they exceed the Pope, and *Mahomet*, who by their impostures endeavored but to counterfeit Christ's Miracles, and make those coun-

counterfeits, ſailable at high rates, thereby to diſeſtimate his truth, and prefer their own inventions, and to eclipſ his kingdom of grace, that they might oſtentate themſelvs in too of Vain glorie; whilſt theſe men having diſguiſed our Lawes in Forraign languages, made them vendible to our ſelvs at their own prices, and thereby have ſubjected the ſeven liberal Sciences, and three free Kingdom's of ſeveral free Nations, to their unlimitable impudence, which being over-ruled for the language they intend to maintain, and augment in price and juriſdiction, and ſettle themſelvs in one tyrannical Monarchie, as arbitrarie, as intolerable, and as ſlaviſh, as mercinarie. And contrarie to *Magna Charta*, and were ever ſince the Court called the Upper Bench, hath impoſed it's

its judicature in matters of Debt, and other Common Pleas, expreſſlie forbidden them, and taken out of their juriſdiction; and both it, and the Common Pleas, impoſe their Judicature in caſes of Tithes, expreſſlie taken out of their juriſdiction by ſeveral Statutes, and given to the ſpiritual Courts, which (though now ſuppreſſed) their juriſdiction ought not to bee reſumed but by the Parlament, nor executed without an Act for that end.

6. In the Art of Perjurie, they infinitelie exceed *Peter*, who forſwore himſelf but once, and when he heard the Cock crow, went out from the Maid that urged him, wept bitterlie, repented him of his ſin, and reſolved to do ſo no more: whilſt theſe men forſwear themſelvs dailie; and when they hear their Pockets ring, go in to their Wenches, with

with whom they interchange deceitful imbraces, and ſeem to laugh merrilie, perſevere in their wickedneſs, and implore a Parlament to countenance, and continue them in condition to do ſo ſtill.

7, 8, & 9. In the ſeveral Arts of Extortion. Bribing, and Prevarication, they exceed the notorious Judges, *De'Burgo Treſilian, Bremble, Thorpe, &c.* as well in their takings, as in their numbers; for as thoſe were few to their manie, and *Thorp's* taking was but 100 l. from manie hands; how manie hundred pounds taketh one of them from one hand? wee can witneſs too well, and others may compute by the increaſ of the price of an *habeas Corpus*, Error, &c. And the neceſſitie of divers parties to make frequent uſes of thoſe inſtruments, more to avoid Juſtice, then

then to desire it: whereby th
prevarication, Ambodexterſhip
and Legerdemain of theſe me
dailie appeareth more and mor
by their impairing of their Cli
ents to improve themſelvs; mani
men of manie thouſands beeing
brought ſuddenlie to nothing
and moſt of them from nothing
to manie thouſands *per annum*.

10. In the Art of Commuta-
tion they exceed both Cano-
niſts, and Civiliane, who com-
muted corporal penances to pe-
cuniarie, paiable out of perſo-
nal eſtates, while theſe men
change Treaſons to treſpaſſes,
and Treſpaſſes to treaſons at
their pleaſure, and make debt
guiltie of death, ſurer, though
ſomtimes ſlower then Treaſon,
or Miſdemeanor whatſoever,
and men's eſtates as well real, a
perſonal whollie their own.

11. In the Art of Transfor-
mation

mation they exceed Chamelions, who can bee of anie colour but white, expreſſed in Scripture to bee the immaculate inveſtiture of Angels: Theſe men can ſeem of all colours to ſuit with all predominations, though never ſo divers, and all contraries, and turn the Law for all their turns, and arrogate moſt truſt when they are moſt treacherous, and face themſelvs with the truth of Saints, when they are as falſ as Devils.

12. In the Art of Counterfeiting, they exceed both Alchimiſts, and Coyners, of whom the firſt counterfeit, but Gold, and Silver, and turn more Gold to braſs, and Silver to lead, then Copper to Gold, or Lead to Silver: And the ſecond Counterfeit, but Pictures, whilſt theſe men counterfeit Juſtice, Equitie, and Lawes, more concernable then

then Metals, to God and Man; and fix mens ſubſtances, more conſiderable then their pictures, upon themſelvs, and their heirs.

13, & 14. In the Arts of Forgerie, and Fraud, they exceed all Coiners of falſ Monies, and Counterfeiters of Letters, and Tokens; whom, if they catch with ſuch miſdeameanors, they ſomtimes ſeverelie puniſh, and ſomtimes paſs over ſleightlie, or excuſe artificiallie, as may moſt conduce to their profit, or concur with their practiſe; whilſt they themſelvs make it a chief part of their office to forge the returns of Sheriffs and Coroners of ſeveral Writs, and to file them for true Records, and due proceedings of Law; whereupon follow Judgments, Executions, and Impriſonments to manie thouſands, to their utter undoing

ing, and for want of ſummons, Attachments, and exigents dulie executed, and returned by thoſe Officers who never ſee them, yet are anſwerable by Law for thoſe falſ Returns made unknown to them, and the Forgers thereof, as of all other faudulent deeds which cannot be drawn, ingroſſed, antedated, and contrived adviſedlie without them, or ſom of their Counſels, ought to bee puniſhed for the ſame, for which they are never queſtioned, but contracting the greateſt Forgeries, wherein they are actors, paſs for good deeds and onlie thoſe trifles that want their skill, and privitie, are made great, or dear offences.

15. In the Art of Lying they exceed the men of *Creet*, and *Chozeba*, who (as is written, 1 *Chron.* 4. 22.) were alſo Ancient, as theſe men would be accompted;

for thoſe but as Men and Heathens, lied but to men in humane things, whilſt theſe men, as Devils, lie unto God, and in contempt of his Divine Word, and Deitie, as ſhall appear hereafter.

16. In the art of Simonie, they exceed *Simon* himſelf, who would have bought, for his monie, the Gifts of the Holie Ghoſt, and intending the Apoſtles favor, purchaſed their indignation: whilſt theſe men have, with their Monie's, purchaſed their Offices, and all the ſaid gifts of the Devil, to execute them, and by the ſame endeavor to acquire the favor of manie other corrupt members, who (as wee hope) ſhall not bee ſuffered long to abuſe the reſt of this happie Parlament.

17. and 18. In the arts of Rapacitie, and Tenacitie, ther Catchi-

Catchpols and Gaolers exceed Lions, and Tygers, and their Gaols and Dungeons Heaven, and Hell, for Lions will favor their friends, and Tigers their neighbors. And Heaven will neither take, nor receiv, anie but God's Elect; nor Hell anie but Reprobates; but Catchpols, Gaolers, and their Gaols catch', and receiv all men they can sue, and count all too few, and keep them in their pawes, and caves, while they are worth a farthing.

And thus having suppedited their Proem with eighteen descriptions of their properties that appropriate to themselvs all our proprieties, and so supernumerated their 13 fals Reasons for the supportation of their innumerable falsities; wee shall descend to sift those Reasons as followeth.

1. The first is all falſ; for the attaching of perſons ſecureth no part of the Plaintiffs debts by paiment, or other ſatisfaction, but commonly their debtors bodies to miſerable deaths, and their eſtates from their heirs and creditors, to Lawyers and Officers: For the proceedings by Summons, wee have anſwered before. And for Priſoners that are able to give for their libertie to their Gaolers, they have as much as they deſire and paie for out of their creditors rights, and their own Frie, and not the Plaintiffs, or their heirs, have their Gaoler's leavings.

2. The ſecond is like the firſt; for it is not a few, that are deteined for debt, when Sir *Jo. Lenthal* hath in his cuſtodie or liſt one thouſand perſons; the Warden of the *Fleet* as many, the Gaols of *London*, *Weſtminſter*, and

and Liberties adjoining, few leſs; and in the reſt of all the Gaols of *England* and *Wales*, will bee found many more. They that accompt ſo many few, declare their deſire is to have all the Free-men of *England* and *Wales* (except themſelvs) in the ſame caſe; why? and with whom elſ do they make the compariſon, but becauſ they conceiv there are more perſons out of priſon, then in; their detention is not ſeldom, but frequent, and ſo are murthers, and hurts, committed as well before, and at, as after arreſts; by reaſon thereof, they are not deteined for a ſhort time, but ordinarily till death as aforeſaid: Warrant of Atturnie, if they need any Atturnies, they ought to give to whom they pleaſ, and not to whom any Court appointeth. And for appearance, no

Free-man oweth it to any Court out of his Decenarie, Hundred, or Countie.

3. The third is but a block-head-ſhip's Proëm, as untrue as the former, and ſo demonſtrated in our anſwer thereunto before. No Trade but Lawyers, nor ſuch, but *Weſtmonaſterians*, will bee hindered by taking away the *Capias*. It was the lawleſs uſe thereof, that cauſed more Uſurers then Merchants, to look after men's perſons: It never was, nor could bee the ſpeediest waie for Plaintiffs to gain their debts, but the moſt delatorie to recover, and the moſt readie and uſual to loſe them; ſo as the repetition of the decaie of Trade, if the *Capias* were taken off, is but tautologie for want of reaſon, and an abuſe of Parlament, to bee offered ſuch untruths, to hear, or look upon,

upon, puniſhable as aforeſaid.

4. The fourth is as bad as all the former; for the attaching of a man's perſon, where hee hath neither means to paie, nor friends to bail, produceth no end but Impriſonment, Summons, and Attachments of men's goods, where they have to paie, conduce to the ſpeedieſt end between Debtor and Creditor: Hee that hath of his own to paie, will regard Summons, leſt if that hee bee attached, hee ſhall loſe all, and if ſubmitted to his Creditor's mercie, hee may ſave ſom. Hee that hath enough, or more then ſufficient to paie his Creditors, of his own eſtate, will neither regard Summons, nor fear Arreſt, but deſire it, beeing ſure of what libertie hee pleaſeth, paying his Gaoler, and to leav what his Gaoler leaveth, to whom hee

liſt, as aforeſaid; whereby more Creditors are cheated, then by any other deceit, and more undon, then debtors of that kinde, who commonly live too plentifully; and leav ſomthing, when their Creditors have nothing whereby to live, or whereof to leav.

5. The fifth is as untrue as the reſt; for a debtor that is worth the Summoning, can live no where better then in his Decenarie where hee is beſt known, and hath his pledges anſwerable for his honeſtie; nor can hee transfer his eſtate to any other Countie but to his loſs: And his avoiding the due courſ of Law, is a miſdemeanor that depriveth him of the benefit thereof; which beeing certified by a *Teſtatum*, a *Capias* of courſ enſueth, to purſue him from Countie to Countie, till hee bee found

found, or outlawed; which was ever lawful againſt ſuch as waved their Law and freedom, to anſwer it in its due courſ; and ſuch a Certificate of the Sheriff of that Countie whence hee fled, ought to make to the *Chancerie*, whence hee had his Juſtices to determine the matter; and the *Chancerie* ought to ſend the *Capias* to the Sheriff in whoſe Countie hee doth *latitare*, *& diſcurrere*; and ſo the *alias*, *Plures*, *Exigent*, and Outlawrie, till hee bee forced to return himſelf to the firſt Sheriffs, to have his cauſ determined there by his Peers, as it ought: all which, affording fifteen daies between Proceſs and Proceſs, is feaſible in half a year; and what hee ſhall bee then found to have left of his perſonal eſtate, his creditors muſt have all, and two parts of his real; with leſs then

a tenth part of the fees and delaies used at *Weſtminſter*: which old courſ of Law beeing reſtored, and ſo known, will make everie able debtor ſubmit to Summons, and farther Proceſs, eſpecially Outlawries, more terrible and odious then now, when they are but ſcare-crows, reverſable and extinguiſhable by their grantors, for their gain at their pleaſures: For the debtor that is not worth the ſummoning, upon the Sheriffs return of *Non eſt inventus, & nihil habet*, the Law is ended (as aforeſaid) until God enable him. And in the interim, whereſoëver hee lurketh, or liveth, by lawful endeavors, *Cantabit vacuus coram latrone viator*, no debtor juſtly indebted, can, or ought to bee ſuffered by any juſt law, or equitie to make away his eſtate, before hee paie his juſt debts, for it is not his

his own, but his creditor's; and ſuch Conveiances ought to bee adjudged fraudulent, although the fraudulent makers of that fraudulent Statute, haye inſerted the words *bonâ fide*, for themſelvs, and their imps, who never had good faith or honeſtie to expound for their profit, as aforeſaid; for good faith can do no man wrong, but falſ Lawyer's interpretations thereof, and of the Law, commonly wrong all men, and enrich onely themſelvs. The Lord *Coke* in the *Third part of his Inſtitutes*, upon the Writ *de odio & atia*, declareth theſe men to bee liers that charge the Law, or its makers, with more regard of men's debts, then their liberties.

6. The ſixth is of the ſame ſtuff, and in ſubſtance anſwered before. Do more Merchants trade out of *England* by ſea, becauſ

cauſ it is an Iſland, then into it out of larger and Forrain lands, where the *Capias* for debt was never known? Do not theſe men buy wares upon truſt, and trade to ſea as often as the Engliſh? and having no *Capias*, have their creditors no Laws to recover their debts? is it not better to attach their debtor's goods, or their own in their hands, or others, then their bodies? And ſo hath *London* uſed to do by Cuſtom, and other Towns and Ports ought to have don ſo aſwel; and the Law of the Admiraltie hath its courſ of Juſtice within its juriſdiction. Wil common Lawyers have no Law but their baſtard the *Capias*, to range about by Sea and Land, like its its Grandfather the Devil, ſeeking whom it may devour? Nay, are not the words of the Writ of Summons, at the Common Law

Law, directed to the Sheriff, which any Major, or chief Magiſtrate of any Corporation, may upon complaint direct to Sheriff or Sergeant; *præcipe, &c. per bonos ſummonitores*; that is, I command thee to ſummon *A B*, &c. by good Summonitors, &c. and have their names, &c, and this Writ before mee by ſuch a daie: And to what end? but that the Summonitors beeing two, or more of the ableſt Freemen, or Pledges of the Juriſdiction, undertaking the Summons, undertake the goods till the Attachment enſue, if they cannot end the matter before, as neighbors bound in charitie ſo to do. But theſe *Weſtmonaſterians* abhor that, and ſeem neither to know, nor willing to admit any charitable end, or other Law, but their *Capias* to catch and bring all fiſh to their net.

7. The

7. The ſeventh is but a chip of the ſixth, and anſwered before, with this addition. Is there no truſt, but where the *Capias* is, or can thruſt it ſelf? If it bee the cauſ of truſt, Juſtice, Equitie, &c. and ſuch a cauſ, as without which none of theſe can ſubſiſt (as they ſaie it is) and both legal and neceſſarie for this Common-wealth, that it ſeem's the onely Truſtee thereof? Why is it not warranted, or ſuffered by theſe men themſelvs to peep into their Inns of Court, and *Chancerie?* places pretended to bee egreſs and ingreſs of Law, Juſtice and Equitie, and known to take upon truſt more then all the Merchants of *England* can tell how to recover by the *Capias* againſt their perſons, who make their Inns, and their Gaols of the upper Bench, and Fleet their Sanctuaries,

ſtuaries, more privileged then thoſe that were ſo called and uſed by ſuch debtors as made fraudulent gifts, feoffments, &c. and afterwards withdrew themſelvs thither, untill the ſecond Statute made the ſecond year of *Richard* the ſecond, granted a *Capias* to ferret out ſuch Latitants out of ſuch Latebras; Such a ferret conceiv wee now, to bee neceſſarie for the Common-wealth, and eſpecially for many undon *Londoners*, by truſting ſuch debtors, or rather cheaters, to fetch them out of their profane Aſylums, the *Fleet*, *Marſhalſey*, their Inns, &c. inſtead of that by them commended for the uſe of the Common-wealth, and yet commanded not to meddle with themſelvs, or their habitations; as if they concluded themſelvs and theirs, to bee no part thereof, though well known

to

to bee all forfeited thereunto. But how irrational they ſhew themſelvs, when they offer reaſons to a moſt wiſe and circumſpect Parlament, to perſuade them that can onely bee profitable to all, which is ſo unwelcom to them, that they cannot endure their own beagles that carrie it abroad, to bee their Inmates an hour longer then while they ſlave and pump them, and ſo make them as fit to bee their Maſs-Prieſts, as their prolling Proctors.

8. The eighth ſheweth theſe men's deſires, as well to pervert the Word of God, as to ſubvert the Laws of *England*, and declareth their right as well to the Faggot, as to the Halter, and their fitneſs as well for Hell, as the Gallows. They bluſh not to ſaie, that they finde preſidents and approbations in the Old and

New

New Teſtaments, of like proceedings, and greater cruelties againſt debtors, amongſt the Jews, then is uſed by them and their *Capias* here: And thoſe (ſaie they) were condemned, neither by the Romanes, that loved Juſtice, nor by Chriſt. The firſt Scripture they cite, is *Matth.* 5. 25. where *whoſoëuer is angrie with his brother without a cauſ, is* adviſed *to leav his gift before the Altar, and bee reconciled to his brother firſt, and then offer his gift, leſt at any time the Adverſarie deliver him to the Judg, and the Judge deliver him to the Officer, and bee bee caſt iuto priſon*; where Chriſt ſaith unto him, *Verily, I ſaie unto thee, thou ſhalt by no means com out, until thou paieſt the utter moſt farthing*: wherewith agreeth *Lu.* 12. 58. 59. and both with the Parable of the non-ſolvent ſervant, *Mat.* 18. 25. & all theſe places con-

conclude with the reſt of the Scriptures, that the debt here meant to bee puniſhed by impriſonment, was not a debt of monie borrowed for need, and lent for love, propheſied to bee don. *Deut.* 15.6. and commanded *Matth.* 5. and 42. And therefore beeing no action of ſin by the Old and New Teſtament, was liable to no action of Law, tending to perſonal puniſhment or impriſonment; but the debt meant here, was indeed the dutie of the Uſurer, Extorter, Deceiver, Hypocrite, &c. to forgive their debtors their debts ſo accrued: But Uſurie, Extortion, Briberie, &c. which were ſuch heinous offences amongſt the Jews, as ſtill they are, or ought to bee with us, that they incurred mixt actions in Law worthie of arreſts and impriſonments, till the uttermoſt farthing were

were paied, or reſtored, with amends; *Levit.* 6. 2, 3, & 4, expoundeth this debt to bee ſuch cleerly, and no other. Our penal Laws for thoſe offences, which make the principal debts void, and give the Plaintiff treble for damages, or according to the Judge's diſcretion, carrie ſhadow of that Juſtice. The Context in *Matth.* 15. declaring our Savior's ſpeeches to the Scribes and Phariſees, elſwhere called Lawyers, Extorters, Diſſemblers, &c. and here redargued of their unrighteouſneſs, and breaking of the Commandements, which they adjudged death to others; accompting killing onely ſuch as was don with the ſword, and him to bee ſubject to the judgment, where they knew; that by their own law, men that killed in their own defence, had ſanctuarie, & that the

word

word Judgment emphatically proceeded with the word The, is always uſed for the general Judgment of God: wherefore Chriſt telling them, that killing extend's to him that is angrie with his brother without cauſ, and elſwhere to him that ſuffereth his brother to periſh when hee may ſave him; much more then to Falſ Judges, Extorters, Uſurers,&c. who may finde themſelvs ſufficientlie deſcribed in him to whom his Lord forgave allhis debt; (which in the laſt verſ of this Chapter (as frequentlie elſwhere) is called as well treſpaſs, as debt, becauſ mixt, and compounded with ſin, more then borrowing, or lending of monie) until hee extorted from his fellow-ſervant, who ought nothing to him, but to his Lord, upon whom he had not like compaſſion, as his Lord had

had upon himſelf, but grew angrie with his fellow-ſervant without cauſ, and caſt him into priſon; which, when his Lord heard, he was wroth, and delivered the mad Extortor, not the meek Debtor to the tormenter, &c. whereof let Extorters, Uſurers, &c. take better notice, and applie the ſaid Scriptures to t emſelvs, and know that the Devil, called here emphaticallie the Adverſarie, is he that delivereth them (as the common accuſer of ſinners whom hee ſeduceth thereunto) to the Judg of Judges, and King of Kings, the God of Truth, Juſtice, and Mercie, who (except they ſay, and reſolv to pay all, *viz.* repent, and have like compaſſion upon their brethren, as they expect from him) will deliver them to the Officer, as ſaith *Matthew* the 5. Tormentor, as ſaith

Mat-

Matthew 18. *viz.* the Devil again
who ſupplieth all ſuch offices
and delivereth all that are deli
vered to him, to Hell, whence
no Redemption, till the utter
moſt farthing bee paid, which i
never to be don after the oil i
out of the lamp, and the dor
ſhut: Where contrariwiſe th
Law of the Jews (which Chri
ſaith hee came not to deſtroie
Mat. 5. 17. and neither did, no
would alter, as appeareth, *Ma*
18. 25.) did not impriſon mo
nie debtors at all, but ſelt them
and their wives and children
and all they had to their credi
tors that were bound by the lam
law to keep, and finde them i
their houſes, and imploiments
not in priſons, and dungeons
without, and from all imploi
ment but wickedneſs, as ou
Gaolers do us; nor as theſe me
impiouſlie allege, and belie th

Holi

Holie Ghoſt, ſaying, That their creditors might take their debtor's cloaths, and bed-cloaths from them; where the Text they cite, (*Lev.* 25.39.) ſaith, they muſt uſe them as brethren, hired ſervants, and ſojorners (which we finde all the Old Teſtament over, had the truſt, and charge, not onlie of their Maſter's eſtates, but of their children, and their wives, and wanted nothing futable, not onlie to their own neceſſities, but alſo to their maſter's credits, and imployments. And debtors were to be kept ſo by vertue of their ſale, but till the year of Jubilee, which, when it fell within ſeven years in the time of *Moſes*, reſtored them to their libertie; for without it, the ſeventh year they were to be reſtored, as appeareth, *Deut.*15.1. &c. And in *Jeremie's* time, at the ſixth years end, *Jer.* 34.

34. 14. Now doth the Capi
Arreſts, and Impriſonments u
by theſe men, hold anie analo
with the mercie, juſtice, ſuſte
ſtentation, freedom, and ho
of libertie in few years, whi
the Jewiſh law afforded to tho
debtors they ſold to their C
ditors? Compare, and finde
followeth: There the debto
had the mercie to be no Priſ
ners at all, but as hired ſervan
and ſojorners: The Juſtice,
bee no bondmen which maſte
might uſe at their pleaſure
The ſuſtentation; to have fo
and raiment enough, and co
potent to their conditions, a
their maſters callings: T
freedom; to live, and love hu
bands, wives, and children
together; to pray, feed ſhee
and work comfortablie togeth
in their maſters houſes, field
vineyards, &c. with no leſs go
i

inſtruction, and recreätion to themſelvs, then profit and pleaſure their maſters, and hope of full libertie to make uſe of thoſe good inſtruments for their own beſt advange at ſix years end, if a Jubilee freed them no ſooner. Contrariewiſe; here the pooreſt debtor hath the cruelleſt impriſonment; that is the rule of theſe men's mercie: The greateſt cheater hath the greateſt favor; that is their Juſtice: The ſuſtentation wee would buy for our ſelvs at the beſt hand, while our monie laſt's, our Goalers take, or keep from us, to force us to buy half ſo much, and nothing ſo good of them, while wee have a pennie left; and after to ſtarve; when others, for our Cuſtom, would prolong our lives, with truſt for a time, they will truſt no poor man for a farthing; nor rich, but to fetch his monie. Our Freedom is not to the next

Ward, nor in our own, to enjoy wives, or children, longer then they bring fees to the Gaoler; that when we have ſold our cloaths, and bed-cloaths to feed our bloud-ſuckers, our common bed is the bare ground, till wee famiſh here, and our wives and children in the ſtreets, and ditches, do the like; hope of libertie wee have none, but by ſuch deaths; for our livelihoods are too little to pay our Fees from the dayes of our Arreſts, to our Funeral: if anie attein to libertie by ſome caſualtie, hee is the worſt while hee liveth for his Gaol education. Our Law is derived from the *Romanes*, who (as theſe men ſay) condemned not the Law of the Jewes concerning Creditors, and Debtors; wee wiſh ours were as merciful; and ſo it was before and ſince *Magna Charta*, when it medled not with men's bodies that had

not

not wherewith to pay their debts, but relieved, and imploied them according to their endeavors, forgiving their debts, and believing that of our Savior; if you forgive not men's treſpaſſes, neither will my Father forgive yours, *Mat.* 7. 12. But theſe men that dare abuſe the everlaſting Word of the everliving God, and the fundamental Laws of this Land grounded thereupon, to miſ-inform a Parlament to their own ends, notwithſtanding they know wee have abundance of ſound Divines to expound Scriptures, and ſome honeſt Lawyers, though no profeſſors to explain Lawes. What ſhall wee think of theſe men's ſinceritie to be truſted with the making up, and keeping of Records concerning the whole eſtates of the Common-wealth? but ſubmit the conſideration thereof to all intereſted therein.

Their 9. Reaſon purſueth the former in its Coin; for moſt untrue it is, That men alwaies begin ſuits (meaning by way of Capias, and Arreſt) upon neceſſities of injuſtice, that is to ſay; when no other trick will ſerv to bar men of their libertie to proſecute juſt ſuits for loſs of lives, or eſtates of moſt concernment; or for Treaſons, felonies, or treſpaſſes moſt notorious, committed by night, and defended by injuſtice, what is more common then to arreſt the proſecutors for ſuppoſed debts of thouſands of pounds, more then they are able to find bail for, until Trials, and Judgments bee carried againſt them in the cauſes they ſhould follow by the ſame hands of Power and Juſtice, that they ſhould proſecute, but cannot, being ſo prevented. And how manie are now impriſoned for ſuppoſed debts, which they never

never ought, or if they did, have paid, or which were not due at the time of the Arreſt, &c. And what neceſſitie of Juſtice was to begin ſuch ſuits? And what murther more wilful, more manifeſt, and more cruel, then to impriſon men ſo till they die? And where they ſay, that moſt commonlie debtors have notice before any ſuit be commenced, why then do they debar ſummons, which is the right proceſs of notice? How come Juſtices of Peace, and Grand Jurie men, that alwaies attend Aſſizes and and Seſſions, to be arreſted by bills of middle Latitats, and Outlawries, before they can hear of anie ſuits againſt them? which caſe is common. And for their alleging of manie Statutes, or Parlaments, that approved of their Capias, let them name one more then that of 25 *Edw.* 3. 17. which gave it, and was repea-

led, 28 *Edw.* 3. 3. and 42 *Edw.* 3. as aforesaid. What Statute, or Parlament, ever since revived it in expres terms? It is true, That of 19 *Hen.* 7. 9. ordeineth proces upon Actions of tresspas upon the case to bee no more delatorie then that practised for debt. And wee grant that actions upon the Case, being mixt actions, ever ought to have been by Capias before that Statute, however neglected by such as ever left undon those things which they ought to have don, to do those things which they ought not. And that summons is a milder way, and not so compulsorie: as the Capias, wee confess, and hold more Christian; for the Capias compelleth men that are not able to pay their debts, and that never ought anie, to be imprisoned, starved, murthered: And no just debt to bee paid so soon as summons, all the world

world knoweth thereof, and therefore no Nation but *English* admitteth a Capias for debt.

The 10. is as deceitful an information as anie before that; for wee desire no new way upon summons, to hasten Judgments before Attachments and distress, by affidavit of a summoner: but that summons may go by Writ, as it was wont, to the Sheriff of the Countie wherein the debtor dwelleth, requiring him by good summonitors (which are the words of the Writ) to summon the partie to bee at the return of the Writ, in the Court whence it issued, whether the Sheriff is to return both the writ, and the summonitor's names, in that ought to be substantial free-holders, and free pledges of the same decenarie as the debtor, who, if they return *summonitus*, are answerable for so much as they finde him worth, till At-

tachment taketh it into the Sheriff's hands, or ſureties for appearance. If the return bee a *nihil habet*, then (as aforeſaid) the Law ought to look no further after him, till God make him able: for (as the Proverb was) where nothing was to be had, the King was to looſ his due. And if the return bee *non eſt inventus*, his ſhunning of the Law maketh him a malefactor, ſubject to a Capias upon a *Teſtatum* directable to the Sheriff of the Countie wherein he lurketh, and ſo from Countie to Conntie, till bee bee taken, or out-lawed. Again, if the return be *ſummonitus*, Attachment, diſtreſs, and Judgment follow of courſ, legallie, and ſpeedilie, and are the onlie due proceſs of Law, as wee have declared before; and ſo is not a Judgment by *nihil dicit*, ſtolne by connivence of Attornies, unknown to the Deftndant, although

though his warrant of Attornie bee had to appear for him: a common feat countenanced too much by the Law at *Weſtminſter*, to thouſands undoings, and their own gain. For trial by Jurie, Iſſues joined, cannot bee tried otherwiſe, *Nihil dicits*, & Arreſts by *Capias* uſe them not: For multiplicitie of Suits and Perjuries, they were things never found fault with at *Weſtminſter* theſe 200 years, till now. And now if the *Chancerie* grant Juſticieſes to Sheriffs and Stewards, as they ought, *gratis*; and Corporations proceed by their Charters, *Weſtmonaſterians* need not fear to bee troubled with multiplicitie of Suits; and thoſe growing fewer, ſo will their perjuries.

11. The eleventh is a toie; for wee grant that a *Capias ad reſpondend.* beeing unlawful, that *ad ſatisfaciend.* is groundleſs, and both moſt lawleſs, and uſeleſs;

the due proceſs of law for d
being as aforeſaid, ſummons,
12. The twelfth is a Rid
and a Paradox, wherewith th
men would amaze us with ſ
wonders of their experie
hapned by this Common-wea
by the benefit of their *Cap*
which they call the Proceſs
Arreſt, *Anno Domini* 1267,
1350. They might have d
well to declare their parti
lars, that others that know th
not, might judg thereof
well as themſelvs. Wee co
feſs, and they know the
reſt, Imprisonment, Ex
and Hanging of Traitors,
tortioners, &c. as were
Spencers, Father and Son;
Judges *Hugh d' Burgo*, *Treſil*
&c. who ſeduced Kings, as th
men would Parlament, w
beneficial to this Commo
wealth; and wee hope it w
bee ſo again, though wee kn

not how long the Devil may help his ſervants: but of poor debtors wee can remember no arreſt that was ever beneficial to any one perſon of this Common-wealth, but have ſufficiently proved the Negative.

13. Laſtly, for the ſubtilties, and ſubterfuges of debtors, wee know none more then theſe men; and their predeceſſors taught ſuch as grew indebted, and by their natural inclinations, aſſiſted with theſe men's advices, and devices, far more ſubtle then their own, to cheat men of their Lands and Eſtates; and by the credits of their ſureties, that took them to be honeſt men, until too late, they found the contrarie. Wee confeſs it is true, that ſuch debtors by the helps of ſuch teachers, became ſo ſubtle, as to get in their hands all they could of their Creditor's rights, and conveied them to

what

what uſes they pleaſed; ar
procuring themſelvs afterwar
to bee arreſted, where they migh
bee brought, or removed to th
upper Bench, or *Fleet*; mad
thoſe places their ſanctuari
and ſubterfuges, where they a
many thouſands in liſt, but ſe
in cuſtodie, riding, rioting, an
ſpending their Creditor's an
Surtie's Eſtates, ſometimes
their own doors, who want fo
their ſakes thoſe bleſſings to re
liev them, which they vainly con
ſume to out-brave them; an
ſometimes in parts remote an
Forrain, more active againſt thi
Common-wealth, then for it.

The premiſes tenderly conſi
dered, and for that theſe men, by
theſe their endeavors declar
themſelvs, and their Judges, and
the reſt of their rabble, to bee o
one fraternitie; and all parties in
this matter of our wrongfu
impriſonments; and guiltie o
all

all the Extortions and Oppreſſi-
ons concurrent therewith, and
livers, and thrivers thereupon;
and therefore no fit Judges in
theſe cauſes, as further appeareth
by their lothneſs to ſubmit, or
give waie to the Houſ, whereof
they are over-ruling members,
to perform their promiſes to
your Excellencie in our behalfs,
made many years paſt, or to re-
ſtore us, and themſelvs, to our
birth-right, liberties, and free-
dom, whereof they have robbed
us, but are aſhamed ſo to do like
thievs and intruders, to deliver
their poſſeſſions to the right ow-
ners. May it therefore pleaſ
your Honor, in our further be-
halfs, to cauſe the Houſ once
more to bee moved to grant a
Commiſſion under the Great
Seal, directed to indifferent
Commiſsioners, that ſhall bee
no profeſſed Lawyers, Atturnies,
&c. or perſons engaged to pub-

lick

lick emploiments, Martial, or Civil; but men of understanding, and discretion, undoubted honestie, well-affected to the present Government, to bee nomited by us, and approved by any two, or more Parlament-men; autorising everie two, or more such Commissioners, (not exceeding twelv in all) to deliver all the Gaols of *England* and *Wales*, of all prisoners for debt, forthwith without delaie, compelling all that are able, to paie all or part of their just debts, to paie accordingly, so far as all their goods, (except the beasts of their plough, tools of their trade, and necessarie cloaths and bedding) and two parts of their Lands shall extend; notwithstanding any Conveiance of any such Lands since the debts grew, (except distributions between real Creditors.) And to hear and determine all wrongful Impri-

sonments,

ſonments, Extortions, Briberies, Uſuries, Perjuries, Forgeries, Frauds, Deceits, Treſpaſſes, or Oppreſsions whatſoëver, concerning ſuch priſoners onely, committed, or to bee committed by any perſon or perſons whatſoëver, againſt them, or any of them, or by any of them againſt any of their Creditors, throughout *England* and *Wales*, according to the antient Laws and Cuſtoms of *England*, confirmed by the great Charter, and Petition of Right, to endure for three years from the date thereof; allowing everie ſuch Commiſsioner 300l *per annum*, above his neceſſarie expences, for his ſalarie, in conſideration of his pains, and loſs in his time, and private affairs; and ſuch fees, and allowances to their Clerks, Meſſengers, and other neceſſarie Miniſters, as any three of them ſhall think fit, not exceeding the preſidents

of

of other Courts, in like caſe
to bee deducted out of ſuch fine
amerciaments, iſſues, profits, an
perquiſits, as ſhall grow due
the Common-wealth, by the
ſervice, as other Courts uſe
do; and the reſt to bee accom
ted for, to ſuch other publi
uſes, as the Houſ ſhall appoint
Which beeing don by you
means, the Land ſhall bee pu
ged of much iniquitie, the Lord
wrath for the ſame much appe
ſed, your Excellencie, and you
Armie gain much happineſ
love, and honor, divine, an
humane, temporal, and eterna
the Common-wealth regain
Million of monie picked out
their purſes by Extorters, U
rers, and common Deceivers
and your Petitioners bee at
bertie to fight for their Cou
trie, and ſafegard of thoſe liv
of their own with courage an
comfort, which as yet they hav
n

no hope but to loſe with care, and ſorrow.

And they, and theirs, as in dutie bound, ſhall ever praie, &c.

A Caſe concerning a matter of Juſtice.

TO the premiſes I muſt add another Caſe of no leſs perſpicuitie and manifeſtation of our Lawyer's actions, then the former, briefly thus; A Gentleman of *Drurie-lane*, ever faithful to the Parlament's ſervice, and an adventurer of his life and fortunes therein, imparted for their uſe and the Common-wealths, 3600l readie monie, upon condition to bee repaied, with lawful conſideration, in convenient time, to ſupply his own occaſions, much ſubject to oppreſsions and injuries offered unto him by Lawyers, and their Clients; in which

which reſpect it pleaſed the
lament to take him into t
protection, which hee concei
Lawyers ſitting Members in
Houſ, adviſed or conſente
bee don, and granted as a la
and juſt thing; or had it b
otherwiſe, would have adv
the contrarie, and never conſ
ed to the ſame. Now the G
tleman (having received non
his monie, nor any conſiderat
for any part thereof, is force
borrow monie upon hard ter
of Uſe, and other Engageme
to buie his Leaſes late held
the Biſhoprick of *Elie*, to
vent others to deprive him th
of, beeing his main ſubſiſtan
can have no benefit of his p
tection, from any of them t
granted it, or of thoſe Cou
wherein they are imploied,
eminently autoriſed; and
Gentleman and his Eſtate da
and unduly queſtioned, yet d

eth hee no more then his own, to defend himself from injustice, or to bee protected therefrom, until hee hath his own, and justice with it, or for it; or that hee may bee satisfied how necessarie it is, or can bee to this Parlament and Common-wealth, or either to have these men, these Counsellors, these Advisers, or rather Devisers of frauds, and subtleties to delude Truth and Justice, that will counsel, advise, devise, or consent things to bee granted, which they will not justifie to bee performed by themselvs, (except that as in cases of common concernment, wherein the partie most suffering ought to have negation from all) Stratagemes are tolerable in war, continued or tolerated in place or power, to mis-guide Parlaments, as their predecessors have don Kings in times of peace, or to bee sole Judges or Interpreters

of

of their own inventions; n
leſs dangerous to this Repub
lick, and their Eſtates, then th
Expoſition of Papiſtical Impo
ſtures, while it was left to th
autors, was to our predeceſſor
and their ſouls. All which i
humbly ſubmitted to your Ho
nor's further conſideration, with
the reſt as aforeſaid; by the ſame

Your Honor's
faithful ſervant,
and obſervant,

Jo. Jones.

IC MAGI

A Case concerning Tythes.

FOR the further manifestation of the lawless Imposture, and usurpation of Jurisdiction, Arbitrarie proceeding, and destruction of Proprietie, exercised daily, and generally by Judges, and no Judges at Westminster, and in their Circuits to the deberedetation of many, and hazard of all; may summarily appear in that one Case lately adjudged by no Judges legally authorised thereunto, between Sir Matth. Lister Knight; Plaintiff, and Lionel Gelson, Defendant, published in print, partly by Petition, partly otherwise, by the modest and discreet wife, and fellow-sufferer of the Defendant, in the Cause of Ann Gelson: the brief whereof is this; the Plaintiff being possessed of the Tythes of a Rectorie, called Burwel, in the Countie of Lincoln, an Impropriation, somtimes parcel of the dissolved College of Tottersal

in

in the ſaid Countie, by virtue
Conveiance derived from a Gra
King H 8. in which it is menti
that the ſaid King gave that R
rie (cùm pertinentiis inter a
to the then Duke of Suffolk, an
heirs. And becauſ it is there
ther mentioned, that the ſaid
gave alſo to the ſaid Duke, the
ſentation of the Rectorie of Wa
gate, which is a Pariſh of it ſel
another Decenarie, and Wapen
of the ſaid Countie, diſtinct f
though neighboring to that of
wel, and founded by the Lord
Manor of Walmſgate, who
was (as yet the Defendant who
meth from him, is) Lord of all
Pariſh in Fee-ſimple, and gav
Tithe thereof (as well his ow
his Tenants at will) to the R
for the time beeing, and his ſu
ſors for ever, reſerving to hi
and his heirs for ever, the Patr
and Preſentation; ſo that when
hapned a neglect of Preſentati

him, or in his heirs, the right thereof fell by lapſ to the Biſhop of Lincoln, and upon his neglect, to the King; which beeing ſo then, in King H. 8. bee might grant for that time to the ſaid Duke: But ſaving for that time, or the like relapſ, the inheritance deſcended to the Defendant. Now this Inheritance from the Defendant, and Tithes from the Incumbent, and his Farmor, are adjudged to the Plaintiff, by Judges and Jurors, according to the courſ of Common Law, (as they pretend) whereas by the Statute 2 Ed. 6. 13. and many preſidents, no right of Tithes ought to bee tried but by Eccleſiaſtical Judges, and Courts according to Eccleſiaſtical Laws; which, though now aboliſhed, the ſaid Statutes beeing not repealed, the Judicature is obeied, and yet undiſpoſed of by the Parlament, which onely can diſpoſe thereof. But in the interim, ſuch Judges and Jurors, as aſſume juriſdiction to trie the rights of Tithes

Tythes by Common Law, are n
Judges, but offendors in Premunire
such trials, no trials, but arbitrari
and lawless Disseisins, and destru
ctions of men's properties; and con
sequently (if not timely remedied) o
the common libertie, rights, an
birth-rights of all the Commonalti
of England; *And the Defendan*
can but fear to bee deprived by th
same cours, of his whole Manor
and subsistence, as well as hee is o
part.

16 MAG 1

FINIS.

re no
naire;
traie
destru-
d con-
ed) of
and
onaltie
endant
by the
Manor,
e is o